IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DIGI PORTAL LLC, Plaintiff, v. **VOLCOM, LLC,** Defendant.	C.A. NO. _____ **JURY TRIAL DEMANDED** **PATENT CASE**

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Digi Portal LLC files this Original Complaint for Patent Infringement against Volcom, LLC and would respectfully show the Court as follows:

I. THE PARTIES

1. Plaintiff Digi Portal LLC ("Digi Portal" or "Plaintiff") is a Texas limited liability company with a place of business at 2108 Dallas Parkway, Suite 214-1003, Plano, Texas 75093.

2. On information and belief, Defendant Volcom, LLC ("Defendant") is a limited liability company organized and existing under the laws of Delaware. Defendant has a registered agent at Paracorp Incorporated 2140 S Dupont Hwy, Camden, DE 19934.

II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has subject matter jurisdiction of such action under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant is subject to this Court's specific and general personal jurisdiction, pursuant to due process and the Delaware Long-Arm Statute, due at least to its business in this forum, including at least a portion of the infringements alleged herein.

Furthermore, Defendant is subject to this Court's specific and general personal jurisdiction because Defendant is a Delaware limited liability company.

5. Without limitation, on information and belief, within this state, Defendant has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, on information and belief, Defendant has derived revenues from its infringing acts occurring within Delaware. Further, on information and belief, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities in Delaware. Defendant has committed such purposeful acts and/or transactions in Delaware such that it reasonably should know and expect that it could be haled into this Court as a consequence of such activity.

6. Venue is proper in this district under 28 U.S.C. § 1400(b). On information and belief, Defendant is a limited liability company organized in Delaware. On information and belief, from and within this District Defendant has committed at least a portion of the infringements at issue in this case.

7. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. § 1400(b).

III. COUNT I
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 8,352,854)

8. Plaintiff incorporates the above paragraphs herein by reference.

9. On January 8, 2013, United States Patent No. 8,352,854 ("the '854 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '854 Patent is titled "Dynamic Page Generator." The '854 patent is not subject to a terminal disclaimer and its term is

extended under 35 U.S.C. 154(b) by 1270 days. (Ex. A). A true and correct copy of the '854 Patent is attached hereto as Exhibit A and incorporated herein by reference.

10. Digi Portal is the assignee of all right, title and interest in the '854 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '854 Patent. Accordingly, Digi Portal possesses the exclusive right and standing to prosecute the present action for infringement of the '854 Patent by Defendant.

11. The application leading to the '854 patent is a continuation of U.S. application Ser. No. 11/656,636, filed Jan. 22, 2007, which is a continuation of U.S. application Ser. No. 09/393,718, filed Sep. 10, 1999, which is a continuation of U.S. application Ser. No. 08/873,975, filed Jun. 12, 1997. (Ex. A at cover). The '854 patent was first assigned to Yahoo! Inc. (*Id.*).

12. The invention in the '854 Patent relates to the field of customized information presentation on the web; more specifically, providing customized pages that are quickly served and scalable to handle many users simultaneously. (*Id.* at col. 1:26-30).

13. Web servers for serving static web pages were well known in the global Internet. (*Id.* at col. 1:31-32). Such static web pages are useful in many applications whether the information presented to each requesting user is the same. (*Id.* at col. 1:32-34). However, some applications require customization to appeal to users. (*Id.* at col. 1:34-35). One example is presenting news to users. (*Id.* at col. 1:35-37). When static pages are used, a user will often have to scroll through many topics not of interest to that user to get to the information of interest. (*Id.* at col. 1:37-40). However, when presenting news to users, customized web pages present news that is more relevant to the requesting user than static pages because the information is filtered according to each user's interest. (*Id.* at col. 1:35-37, 40-41).

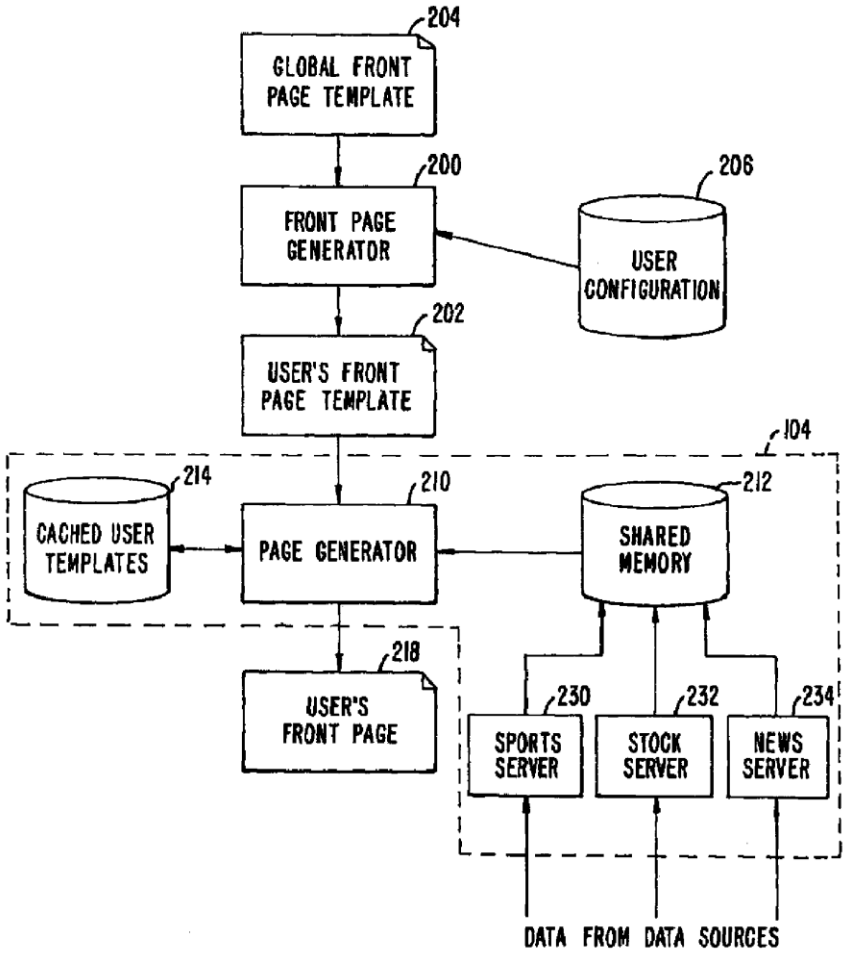
14. Customizing a server response based on the requester is known; however, known systems do not scale well. (*Id.* at col. 1:42-43). One method of serving custom pages is to execute a script, such as a Common Gateway Interface (CGI) script or other program to collect the information necessary to generate the custom page. (*Id.* at col. 1:43-47). For example, if the custom page is a news page containing stock quotes, sports scores and weather, the script might poll a quote server to obtain the quotes of interest, poll a sports score server to obtain the scores of interest and poll a weather server to obtain the weather. (*Id.* at col. 1:47-51). With this information, the server generates the custom page and returns it to the user. (*Id.* at col. 1:51-52). This approach is only useful where there are not many requesters and where the attendant delay associated with polling various servers to obtain the requested information is acceptable to users. (*Id.* at col. 1:53-54). Growing impatience with waiting will turn users away from such servers, especially as use increases. (*Id.* at col. 1:54-58).

15. One approach that was used in the prior art to avoid long waits is to transfer the custom information in non-real-time, so that the information is stored local to the user as it arrives and is presented to the user on request. (*Id.* at col. 1:59-62). A disadvantage of such a system is that the networks used by the user become clogged with data continually streaming to the user and require large amounts of local storage. (*Id.* at col. 1:62-65). Another disadvantage is that the locally stored information will become out of date as the server receives new data. (*Id.* at col. 1:65-67).

16. The inventors therefore recognized that there was a need to dynamically generate customized pages in an unconventional manner that solved the technical problems in the prior art of long transfer times to obtain the requested information or having to rely on continually

transferring custom information in non-real time which can clog the data network in addition to providing outdated information. (*Id.* at col. 1:42 to col. 2:2).

17. The following is a discussion of non-limiting examples of the claimed invention discussed in the specification of the '854 patent. The '854 patent provides a non-limiting exemplary diagram of the generation of a custom page for a user, using a front-page generator (200) and page server (104) (*Id.* at col. 3:58-60):



(Ex. A at Fig. 2). Front page generator (200) generates a user template (202) from a global front page template (204) and a user configuration record (206). (*Id.* at col. 3:58-62). A non-limiting example of a global front page template is provided in the '854 patent:

(Ex. A at Fig. 3). The global user template (204) is an HTML (HyperText Markup Language) document with additional tags as placeholders for live data. (*Id.* at col. 5:16-19). Several place holders (302) are show in the code. (*Id.* at col. 5:19).

18. A user configuration record (206) is a record selected from user configuration database (116). (*Id.* at col. 3:63-64). User configuration information includes user demographic information, such as sex, age, location, stock quotes, favorite sports teams, news topics, etc. (*Id.* at col. 2:13-14, col. 5:45-50, col. 6:37-39, 46-48, 52-56). The user configuration information in the example may not change until the user changes his or her preferences. (*Id.* at col. 5:33-35).

19. The '854 patent provides an illustration of a user template (202) as might be generated from global user template (204) and a user configuration record (206):

202

```
<!-- timezone:-8,PT 0 -->
<!-- ad:M,85,95035,T,* 792 -->
<!-- portfolio:Quotes,pf_1,1,^DJI,^NYA,^IXIC,^SPX,^XAX,YHOO,NSCP,IOM,NSCP,YHOO
2836 -->
<!--
404 scoreboard:NCAAFSSC,NHLSAN,MLSSAN,NCAAFSSS,ALOAK,NBAGSW,NFLOAK,NCAAFCCD,NFLSFO
,NLSFO 3803 -->
<!-- weather:f,30901,uk_londo,94601,95101 4368 -->
<!--
mode_bar:"FRONT_PAGE",.hier=News+Summary%3aEdit&.done=http://my.yahoo.com/news
/summary2:3,rt,rw,z0000,mlb,re,vf 4597 -->
<!-- motd:us_motn.html 4696 -->
<html>
<head>
<title>My Yahoo! news summary for ash802</title>
</head>
<body>

...

</body>
</html>
```

(Ex. A at Fig. 4). The user template is unique because it is built based on user demographic information provided by the user, as opposed to generically chosen dynamic information or based on information provided by the server. Exemplary demographic information is shown in line 2 of Fig. 4 (":M,85,95035,T,*") indicating that the user is a male, age 85, located in zip code 95035, etc. (*Id.* at col. 5:42-45). The '854 patent includes a full listing of the non-limiting exemplary user template of Fig. 4 in Appendix A. (Ex. A at col. 2:57-58; col. 5:22-23).

Listing of a User Template

```
<!-- timezone: -8,PT 0 -->
<!-- ad:M,85,95035,T,* 792 -->
<!--
portfolio:Quotes,pf__1,1,^DJI,^NYA,^IXIC,^SPX,^XAX,YHOO,NSCP,IOM,NSCP,YHOO
2836 -->
<!--
scoreboard:NCAAFSSC,NHLSAN,MLSSAN,NCAAFSSS,ALOAK,NBAGSW,NFLOAK,NCAAFCCD,NF
LSFO,NLSFO 3803 -->
<!-- weather:f,30901,uk__londo,94601,95101 4368 - - >
<!--
mode__bar:"FRONT__PAGE1",.hier=News+Summary%3aEdit&.done=http://my.yahoo.com/
news/summary.html?v 4538 -->
<!-- summary2:3,rt,rw,z0000,mlb,re,vf 4597 -->
<!-- motd:us__motn.html 4696 -->
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</head>
<body>

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href="/contacts/white__pages.html?v"><area shape=rect coords="135,0,346,66"
href="/?myHome"><area shape=rect coords="346,0,389,66"
href="/help/news/summary.html"><area shape=rect coords="389,0,431,66"
href="http://edit.my.yahoo.com/config/eval__profi1e"><area shape=rect
coords="431,0,477,66" href="http://edit.my.yahoo.com/config/toffly">
</map>
<center><a href="/bin/top__menu"><img border=0 height=62 width=477 ismap
usemap="#top" src="http://www.yahoo.com/images/my/banner/news1.gif"
alt="My Yahoo!"></a></center>

<p>
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href="http://edit.my.yahoo.com/config/set__attr?attr=sloc&value=b&.done=htt
p://my.yahoo.com/news/summary.html?v">move to bottom</a> ] </font><input
size=25 name=p> <font size="-1">  <input type=submit
value=Search><input type=hidden name=n value="25">   <a
href="http://search.my.yahoo.com/search/my/options">Options</a></font></fo
rm></center><p>
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<td> | </td>
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<td> | </td>
<td align=center><a
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<td> | </td>
<td align=center><a
href="/news/entertainment/summary.html?v">Entertainment</a></td>
<td> | </td>
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<td> | </td>
<td align=center><a
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</tr>
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</center>
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cellpadding=2 cellspacing=0 width="100%"><tr><td width="100%"><b><font
size="+1">P<font size="+0">ORTFOLIOS</font></font></b></td><td
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m/news/summary.html?v"><img align=absmiddle border=0 height=13 width=25
src="http://www.yahoo.com/images/my/personalize.gif"
alt="edit"></a></td></tr></table></td></tr>
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size=10 name=symbols><input type=submit value="Get Quotes"><br><font
size="0">quotes delayed 20 minutes - <a
href="/fin_disclaimer.html">disclaimer</a><br>click on symbol for detailed
quote + news<br><b>*</b> indicates new news during last
24hrs<font></form></td></tr></table>
<hr size=0><table border=0 cellpadding=1 cellspacing=0 width="100%">
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cellpadding=2 cellspacing=0 width="100%"><tr><td width="100%"><a
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size="+0">COREBOARD</font></font></b></a></td><td align=right><a
href="http://edit.my.yaho9.com/config/set_sports?.done=http://my.yahoo.com
/news/summary.html?y"><img align=absmiddle border=0 height=13 width=25
src="http://www.yahoo.com/images/my/personalize.gif"
alt="edit"></a></td></tr></table></td></tr>

<hr size=0><table border=0 cellpadding=2 cellspacing=0 width="100%">
<tr bgcolor="#dcdcdc"><td colspan=3 width="100%"><table border=0
cellpadding=2 cellspacing=0 width="100%"><tr><td width="100%"><a
href="/my/?http://weather.yahoo.com/"><b><font size="+1">W<font
size="+0">EATHER</font></font></b></a></td><td align=right><a
href="http://edit.my.yahoo.com/config/set_wni?.done=http://my.yahoo.com/ne
ws/summary.html?v"><img align=absmiddle border=0 height=13 width=25
src="http://www.yahoo.com/images/my/personalize.gif"
alt="edit"></a></td></tr></table></td></tr>
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forecast</font></td></tr>
</table>

<hr size=0>
<p></td>
<td align=center valign=top width="100%">

<table border=1 cellpadding=2 cellspacing=0 width="100%">
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</td></tr>
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<center>
<table border=1 cellpadding=2 cellspacing=0 width="100%">

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<p>
<hr>
<center>
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<tr>
<td align=left valign=top><tabie border=0 cellpadding=0 cellspacing=0>
<tr><td align=left valign=bottom><a href="/my/?http://www.yahoo.com/"><img
border=0 height=47 width=47 src="http://www.yahoo.com/images/my/yahoo.gif"
alt="Yahoo!"></a></td>
<td>&amp;nbsp; &amp;nbsp;</td>
<td align=left valign=bottom width="100%"><font size="-1"><i>Copyright
&amp;copy; 1994-1997 Yahoo! Inc. All rights reserved.</i><br>Portions
copyright &amp;copy; 1997 Reuters Ltd. All rights reserved.<br>
Portions copyright &amp;copy; 1997 SportsTicker Enterprises LP. All rights
reserved.<br>
Portions copyright &amp;copy; 1997 Weathernews Inc. All rights reserved.<br>
Portions copyright &amp;copy; 1997 Business Wire. All rights reserved.<br>
Portions copyright &amp;copy; 1997 PR Newswire. All rights reserved.<br>
Questions, comments, or suggestions? Send us <a
href="http://my.yahoo.com/feedback.html">feedback</a>.</font></td>
</tr>
</table>
</tp>
<td>&amp;nbsp; &amp;nbsp;</td>
<td align=right><a href="/bin/logout_menu"><img border=0 height=68
width=100 ismap usemap="#logout"
```

```
src="http://www.yahoo.com/images/my/logout.gif" alt="Change
User"></a></td>
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href="http://edit.my.yahoo.com/config/login?logout=1">
</map>

</body>
</html>
```

(Ex. B at Col. 7-11).

20. As shown in Fig. 2 of the '854 patent, the user template does not need to be generated each time and instead can be generated and stored. (Ex. A at col. 4:49-51, col. 5:23-32). One benefit of the claimed invention that speeds up the operation of the dynamic page generation is that the page can be stored in multiple locations that are based on the frequency by which the user requests the customized page based on the user template. (*Id.* at col. 5:37-38, col. 6:49-59). Some users might choose to access their user page infrequently, while others might choose to access their front page hourly. (*Id.* at col. 6: 52-54). For infrequent users, the user template is stored in a user configuration database, whereas for frequent users the user template may also be stored in cache. (*Id.* at col. 5:37-38, col. 6:51-59). Caching reduces the time to respond to a request for a page and is more effective where the typical user makes several requests in a short time span and then doesn't make any requests for a long period of time. (*Id.* at col. 5:29-32).

21. When the user template stored in cache, it may be stored long enough to be reused and may also be flushed from cache if the user page has been inactive for several days. (*Id.* at col. 6:49-52, 59-60). Even if it is flushed from cache, the user template can be maintained in the user configuration database, which can then be quickly accessed and stored in cache in the event a user may start to access the user page quickly. (*Id.*).

22. The custom user page can also include an advertisement that is selected based on the user demographic information. (*Id.* at col. 5:39-42). For example, using the demographic information ":M,85,95035,T,*", an advertisement can be selected that is targeted for a male user, age 85, located in zip code 95035, etc. (*Id.* at col. 5:39-45).

23. Appendix B of the '854 patent is an HTML source code listing of an HTML page created from an executed user template that is used to generate a user customized browser web page. (Ex. B at col. 11 – col. 19).

24. As explained the '854 patent and prosecution history, there are unconventional and non-generic features of the claimed invention which are technical improvements that make the generation of dynamic web pages quicker, more efficient, and use less resources. By storing the user customized template program in two locations in which the location is determined by frequency, the system is more efficient and allows for a quicker response than the prior art. For example, by storing the user customized template in user configuration database and in cache, the dynamic generation of a user customized web page is more efficient and uses less resources of the server, database, and network, and allows for a quicker generation of the dynamic web page thereby allowing the server to scale in order to handle substantially more requests for user customized dynamic web pages. (*See* Ex. A at col. 1:42-67, col. 4:49-col. 5:15, col. 5:23-32). Furthermore, by caching the user template, the page can be generated entirely within a page server, thus conserving network and database resources. (*See id.* at col. 4:10-11, col. 5:23-32). By also storing the user customized template in a user configuration database, even if the cache is cleared, the template already exists in the database which then prevents having to regenerate a new user customized page from a global page template using a user configuration record thus saving database and server resources and more quickly generating the requested web page from the user

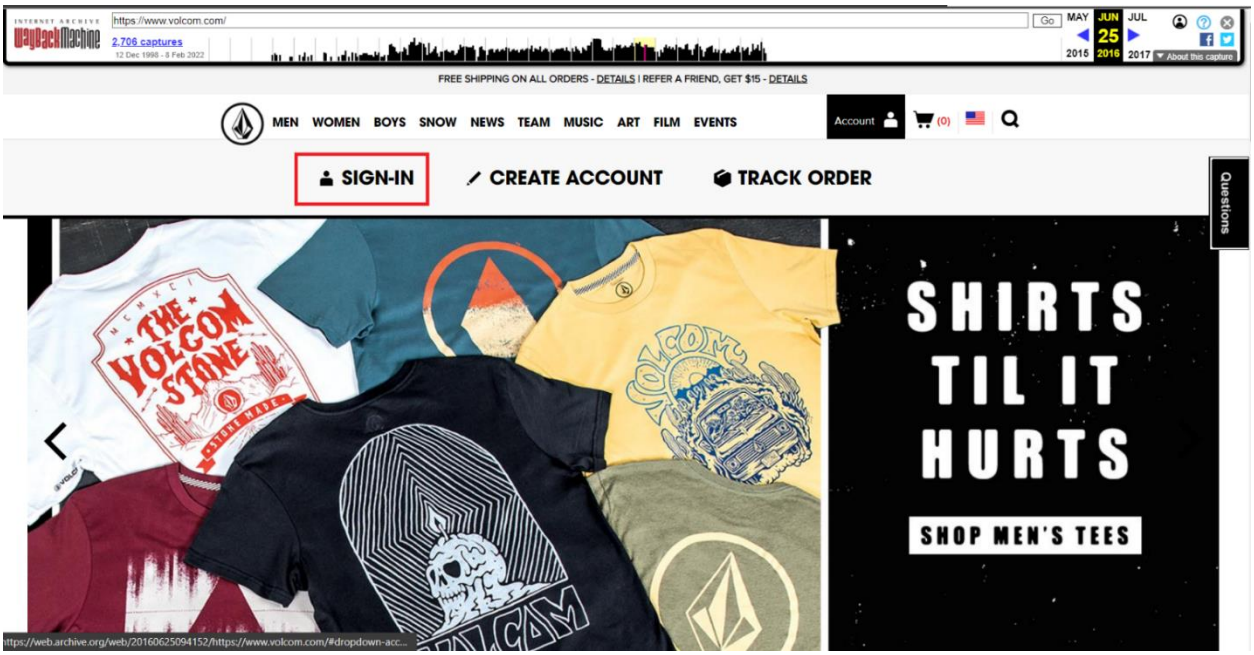
customized template. (*E.g.*, *id.* at col. 3:37-39, col. 4:1-11, 49-62). The storage of a user customized template program in at least two locations and the location determined from the frequency of the user request for the customized page was an unconventional and non-generic method for storing such templates and was not disclosed in the prior art. (Ex. C (Oct. 28, 2010 Resp. to Office Action) at 9).

25. Furthermore, the invention provides for more personalized web pages because the user provides user configuration information on which the user customized template is generated. (Ex. C (Oct. 28, 2010 Resp. to Office Action) at 9; Ex. D (Apr. 18, 2011 Resp. to Office Action) at 6). This was an unconventional way for generating a user customized template unique to the user that was not found in the prior art. (Ex. D (Apr. 18, 2011 Resp. to Office Action) at 6).

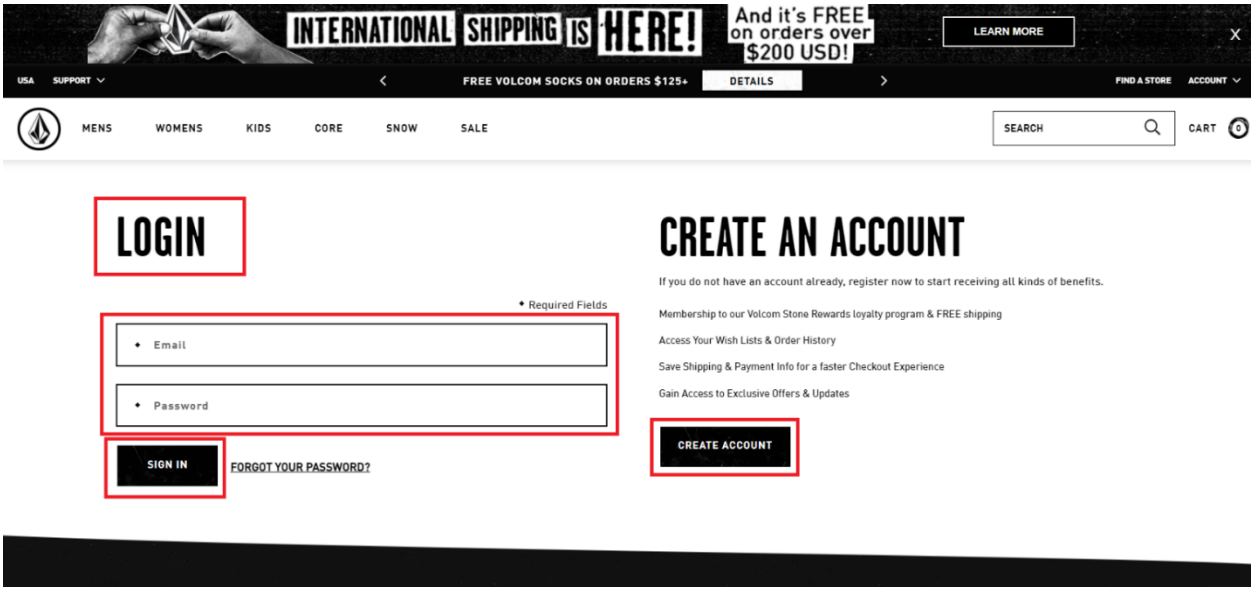
26. The patents related to the '854 patent and sharing the same specification were cited during the prosecution history of over 700 patents, including patents and applications owned by companies including Google, Inc., Microsoft Corporation, Amazon Technologies, Inc., Facebook, Inc., Ebay, Inc., Salesforce.com, Inc., IBM Corporation, Oracle International Corporation, Comcast Cable Communications, LLC, SAP AG, Citrix Systems, Inc., BEA Systems, Inc., Sprint Communications Company L.P., Siemens AG, AT&T Intellectual Property I, L.P., Hewlett-Packard Development Company, L.P., Fujitsu Limited, AOL LLC, General Electric Company, Accenture LLP, Adobe Systems Inc., Sony Computer Entertainment Inc., and Akamai Technologies, Inc. (*See* http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=0&f=S&l=50&TERM1=5983227&FIELD1=UREF&co1=AND&TERM2=&FIELD2=&d=PTXT).

27. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing at least claims 1-2, 8-9, and 15 of the '854 patent in Delaware, and elsewhere in the United States, by performing the claimed method, using the claimed computer-readable non-transitory medium storing computer instructions, and/or making and/or using the claimed system at https://www.volcom.com/account/login ("Accused Instrumentality").

28. The Accused Instrumentality practices a method for receiving a user request (*e.g.*, a user login request) for a customized page (*e.g.*, a user's customized home and search pages on the website). As shown below, the volcom.com website will utilize user demographic information to serve content. Targeted advertisement is implemented using location and demographic information provided by the user. The JavaScript code shown below from the front-facing publicly available code, demonstrates that the sign-in is handled via JavaScript. The actual JS file is served from a CDN. The JavaScript code below was retrieved from browser developer tools. Based on user data, the code is utilizing user demographics such as location.



(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/account/login).

2. PERSONAL INFORMATION WE COLLECT

We collect personal information at every touch point or consumer interaction, and in conducting every aspect of our business, we may collect personal information. This personal information may include your first name; last name; account name; alias name; email address; postal address; phone number; birth month and day; age; gender; characteristics; preferences; credit and debit card numbers; purchase history; products considered; customer reviews; user generated photos; customer service chat content; customer service email content; customer service call content; email engagement activity; loyalty status; loyalty interactions; loyalty join date; tier name; spend to next tier; lifetime points; available points; points to next reward; last earned points; points expiration; available rewards; reward earned date; last activity date; referral interactions; IP address; cookie ID; user ID; authenticated user ID; browser user ID; shop subscriber ID; account utoken; domain; browser ID; browser GUID; browser information; device ID; other unique device identifiers; device type; device model; platform; operating system type; operating system configuration; other sysem information; advertisement interactions; website browsing history; website click tracking; website search history; website browsing behavior; website access date; website access time; web log data; referring websites; exiting websites; geolocation; time zone; country code; click tracking; audience segments; and other types of information that you choose to provide us or that we may obtain about you.

Various demographic information collected by Volcom

(*E.g.*, https://www.volcom.com/pages/privacy-policy).

Text Marketing and Notifications. By entering your phone number in the checkout & opting into receiving text message notification and initializing a purchase, subscribing via one of our text message subscription forms or via a keyword, you agree that we may send you text notifications (for your order, including abandoned cart reminders) and text marketing offers. Text marketing messages will not exceed five (5) a month. You acknowledge that consent is not a condition for any purchase. If you wish to unsubscribe from receiving text marketing messages and notifications reply with **STOP** to any mobile message sent from us or use the unsubscribe link we provided you with in any of our messages. You understand and agree that alternative methods of opting out, such as using alternative words or requests will not be accounted as a reasonable means of opting out. Message and data rates may apply. For any questions please text **HELP** to the number you received the messages from. You can also contact us for more information. If you wish to opt out please follow the procedures above.

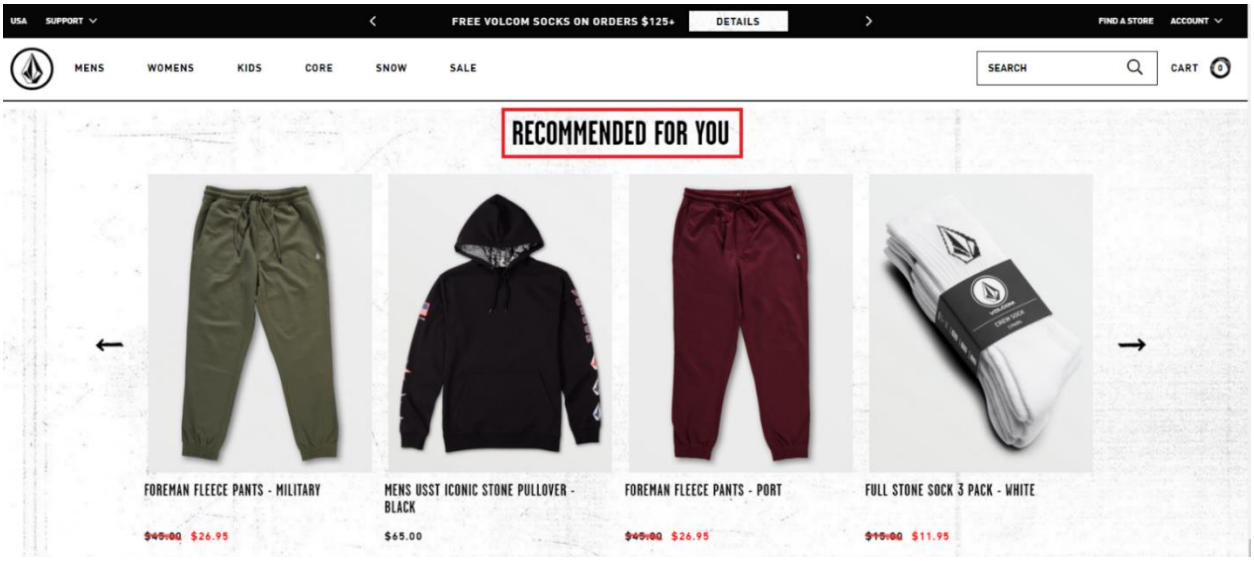
(*E.g.*, https://www.volcom.com/pages/privacy-policy).

4. PURPOSES FOR WHICH WE COLLECT PERSONAL INFORMATION

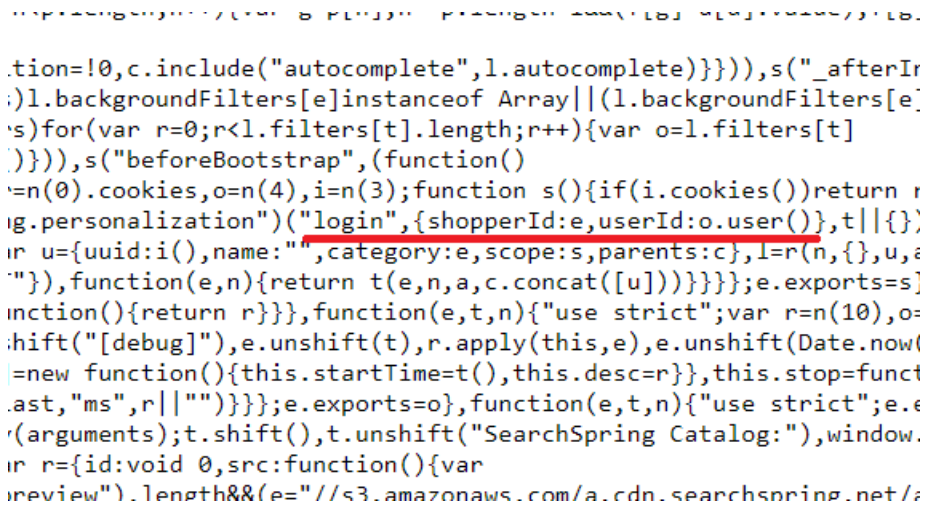
We collect your personal information for the following reasons:

- Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards;
- Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity;
- Debugging to identify and repair errors that impair existing intended functionality;
- Short-term, transient use, provided the personal information is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction, including, but not limited to, the contextual customization of ads shown as part of the same interaction;
- Performing services on our behalf, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, or providing similar services on our behalf;

(*E.g.*, https://www.volcom.com/pages/privacy-policy).



(*E.g.*, https://www.volcom.com/).

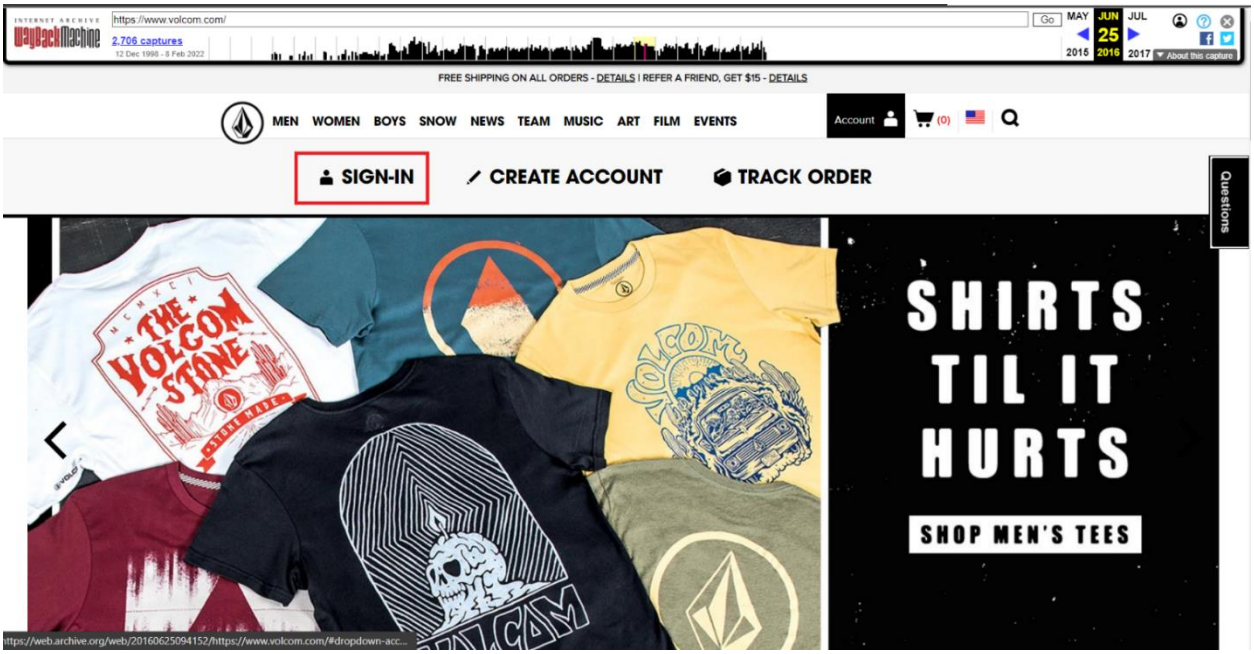


(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js).

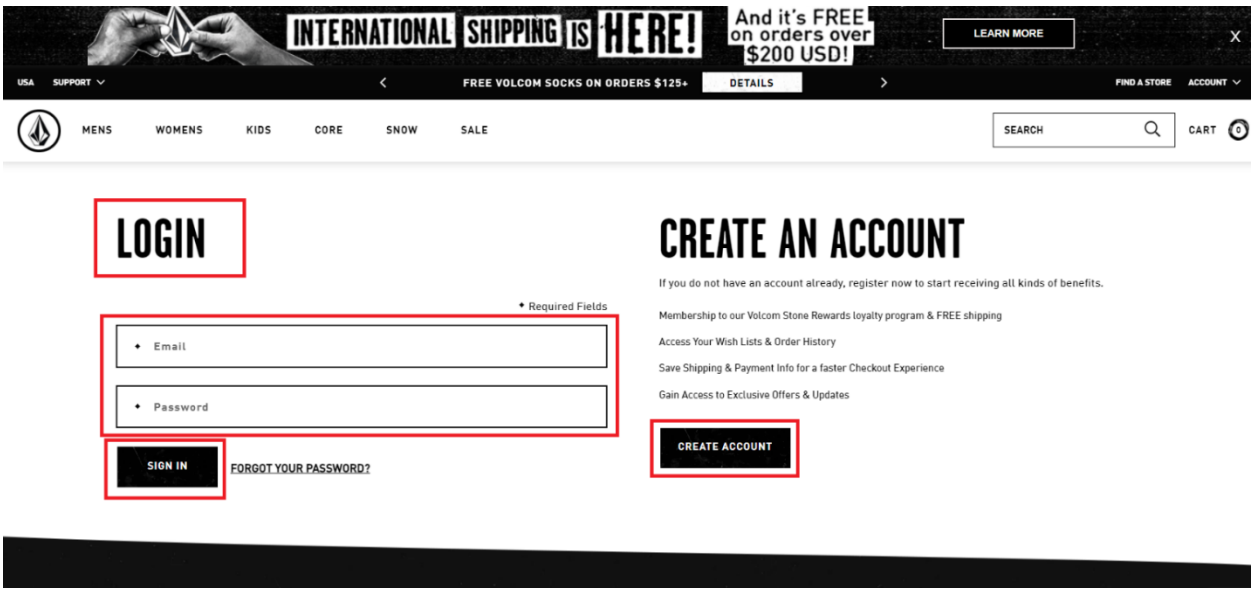
(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js).

29. In at least testing and usage, the Accused Instrumentality practices receiving a template program (*e.g.*, software instructions and data used for rendering a particular user's page such as a JavaScript page) that is unique to the user (*e.g.*, after a user logs in, pages shown to the user will be based upon a user specific template which dictates that customized information is displayed, such as the display of the user's name on the page) and based on user configuration information (*e.g.*, a user can customize the content of their templates and what will be rendered and displayed using said templates by using preferences tied to their account by logging in and by entering information such as search preferences) the user configuration information being supplied by the user (*e.g.*, a user will have inputted account preferences, such as their name, and will input search preferences) and used to build the template program that is unique to the user (*e.g.*, a template program will be unique to a user because it is composed of instruction, code, and data that is processed/executed to create a webpage customized to a user (*e.g.*, after a user logs in, the pages displayed to the user will show the user's name; volcom.com server provides at least a portion of the unique template program, such as a generic template containing JavaScript and other code that executes at a user's computer to create a customized webpage), the user configuration information including user demographic information (*e.g.*, a user's account profile information and/or configuration information may contain their location and age, amongst other information), and wherein the template program is received from one of at least two locations (*e.g.*, the data and templates comprising a user's page may be retrieved from a main server/disk storage, or from other sources such as a CDN server , cookies, or local cache), the location determined from the frequency of the user request for the customized page (*e.g.*, based on the frequency at which a user logs in or accesses their page, the data comprising the users page may be stored at a main server or at a CDN server, cookies, or local cache). On information and belief, template information, that

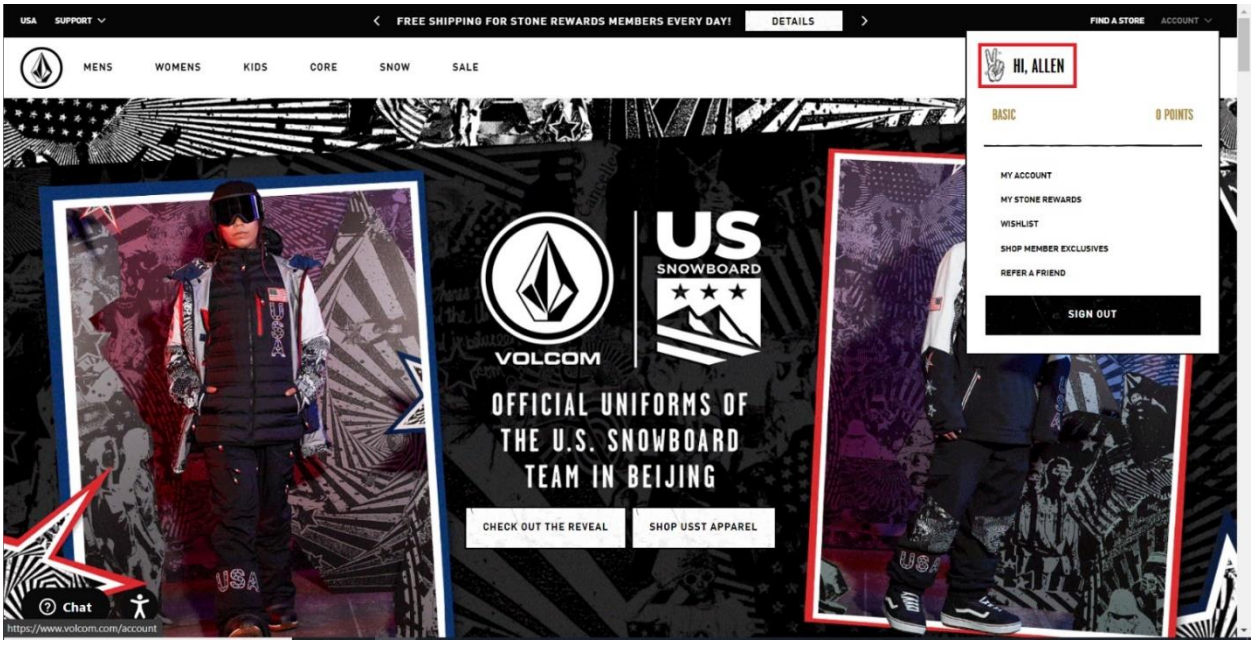
is part of a template program which corresponds to less frequently accessed webpages, will need to be pulled from a main server, wherein for more frequently accessed pages, template information will be stored in local storage on the user's computer. Running the template program (page generation code, tiles, containers, and user data) creates the customized webpage. When a user signs-up or performs a login, the code takes the user template information and stores it in a site JavaScript object that is used in logic to display site logic-based conditions. The user information is stored in multiple locations: (1) At runtime, in a JavaScript object with the data structure called Context Data; (2) Within Browser local storage; and (3) Browser Cookies. As shown below, after a user logs in to their account, a user specific template program will be used to display pages to a user. The user specific template dictates that certain customized content, such as the user's name, will be displayed. The volcom.com website will utilize user demographic information to serve content. Targeted advertisement is implemented using location and demographic information provided by the user. The JavaScript code shown below from the front-facing publicly available code, demonstrates that the sign-in is handled via JavaScript. The actual JS file is served from a CDN. The JavaScript code below was retrieved from browser developer tools. Based on user data, the code is utilizing user demographics such as location. The code below shows, that some portions of the template program may be pulled from local browser cache as opposed to the main server.



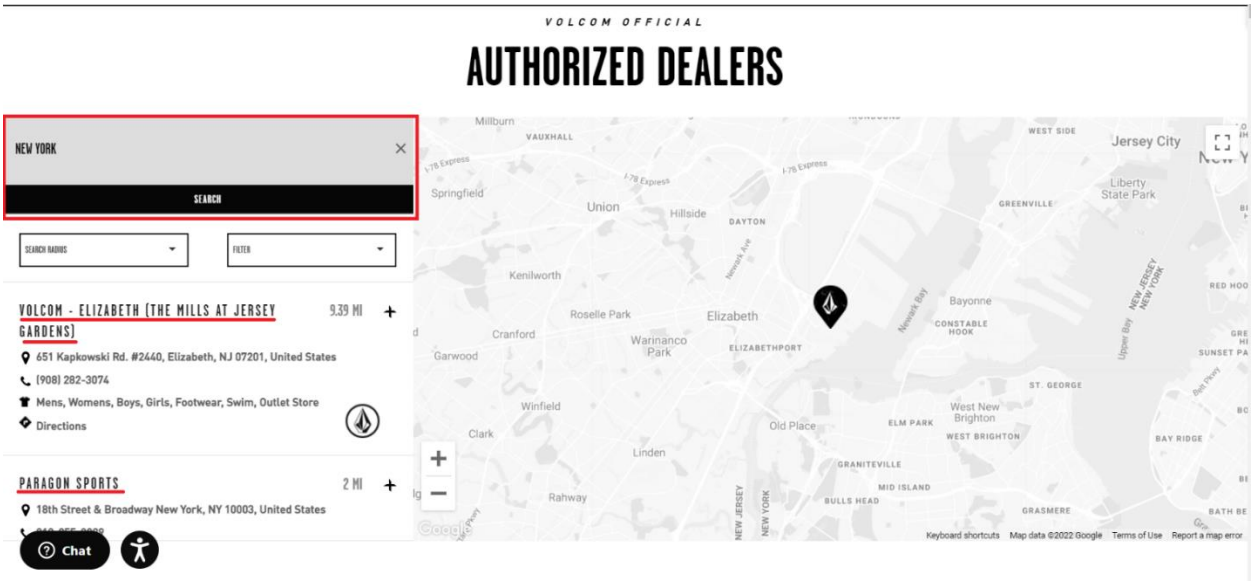
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/account/login (for a particular user)).



(*E.g.*, https://www.volcom.com/ (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js).

```
checkCount++,r.checkCount>r.checkMax&&window.clearInterval(o)}),r.checkTime)},pars
.split("?")[1]||"":window.location.search).replace(new RegExp("([^?=&]+)(=([^&]*))
:"+(n=n||"Lax")+";path=/;";if("https:"==window.location.protocol&&(i+="Secure;"),r)
-="domain="+o+";"),window.document.cookie=i},unset:function(e,t){var n=e+"=;path=/;
for(var t=window.document.cookie.split(";"),n=0;n<t.length;n++){for(var r=t[n];" "
:turn""}},query:function(e){var t=n(5),o=n(2),i=(e||new o).get("q").pop();return(i=
'\+/g," "))},isScalar:function(e){return"number"==typeof e||("boolean"==typeof e||(
;ON.stringify(e))},charsParams:function(e){if("object"!=typeof e)throw new Error("f
ıy.isArray(o)?t+o.reduce((function(e,t){return e+r+1+(""+t).length}),0):t+r+1+(""+o
n){"use strict";var r={};function o(e,t){if(e)if(-1==e.indexOf(" "))r[e]=r[e]||[],
_UNBINDFALSE__",e.exports={on:o,fire:function(e){var t,n=Array.prototype.slice.cal
:eak;if(t===o.UNBINDFALSE){r[e].splice(i--,1),t=!1;break}t===o.UNBIND&&r[e].splice(
'or(var n=0;n<e.length;n++)if(e[n]!=t[n])return!1;return!0}function a(e){for(var t=
:(var n=0;n<e.length;n++)"string"==typeof e[n]?(e[n]=encodeURIComponent(e[n]),e[n]=
:[n]&&(e[n]=this.encode(e[n],t));return e},this.decode=function(e,t){for(var n=0;n<
n]=e[n].replace(/\+/g," "),e[n]=decodeURIComponent(e[n])):"object"==typeof e[n]&&(
ıg(e)},this.reset=function(){this.updateParameters();var e=[];for(var t in
ı=window.location.hash;"#"==n[0]&&(n=n.slice(1)),n=n.split("/");for(var r=0;r<n.len
ıction(){this.beforeGenerateUrl();var e=this.hashPath(),t=n(5);return this.root+thi
ı.filter((function(e){if(e.length&&-1==i.indexOf(e[0]))return!0}))},this.params=fun
){var e=this.encode(angular.copy(this.hashies()),!0);a(e);for(var t=0;t<e.length;t
copy(this.params()));for(var n in a(t),i)delete this.parameters[i[n]];for(var r=0;
ıgular.forEach(Object.keys(this.parameters),(function(t,n){e+=t+
length-1&&(e+="&")}))}return e},this.go=function(){var e=new RegExp(this.url().spl
&window.history.pushState&&t?window.history.pushState({},"",this.url()):window.loc
ı=[],r=0;r<this.path.length;r++){var o=this.path[r].length;t<=o&&s(e,this.path[r].s
.ice.call(arguments);return this.path.push(e),this},this.remove=function(){for(var
ıis.path.splice(n,1)}return this},this.bind=function(e){this.bound=e,e.location=thi
;ular.copy(this.path),e.parameters=angular.copy(this.parameters),e.root=this.root,e
ıdow.location.href.split("#")[0].split("?")[0];var e=n(5);void 0===e.hashOnly&&
ısh("rejectedQuery"),i.push("sq"),i.push("queryAssumption"),e.queryParams&&
```

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js).

2. PERSONAL INFORMATION WE COLLECT

We collect personal information at every touch point or consumer interaction, and in conducting every aspect of our business, we may collect personal information. This personal information may include your first name; last name; account name; alias name; email address; postal address; phone number; birth month and day; age; gender; characteristics; preferences; credit and debit card numbers; purchase history; products considered; customer reviews; user generated photos; customer service chat content; customer service email content; customer service call content; email engagement activity; loyalty status; loyalty interactions; loyalty join date; tier name; spend to next tier; lifetime points; available points; points to next reward; last earned points; points expiration; available rewards; reward earned date; last activity date; referral interactions; IP address; cookie ID; user ID; authenticated user ID; browser user ID; shop subscriber ID; account utoken; domain; browser ID; browser GUID; browser information; device ID; other unique device identifiers; device type; device model; platform; operating system type; operating system configuration; other sysem information; advertisement interactions; website browsing history; website click tracking; website search history; website browsing behavior; website access date; website access time; web log data; referring websites; exiting websites; geolocation; time zone; country code; click tracking; audience segments; and other types of information that you choose to provide us or that we may obtain about you.

Various demographic information collected by Volcom

Text Marketing and Notifications. By entering your phone number in the checkout & opting into receiving text message notification and initializing a purchase, subscribing via one of our text message subscription forms or via a keyword, you agree that we may send you text notifications (for your order, including abandoned cart reminders) and text marketing offers. Text marketing messages will not exceed five (5) a month. You acknowledge that consent is not a condition for any purchase. If you wish to unsubscribe from receiving text marketing messages and notifications reply with **STOP** to any mobile message sent from us or use the unsubscribe link we provided you with in any of our messages. You understand and agree that alternative methods of opting out, such as using alternative words or requests will not be accounted as a reasonable means of opting out. Message and data rates may apply. For any questions please text **HELP** to the number you received the messages from. You can also contact us for more information. If you wish to opt out please follow the procedures above.

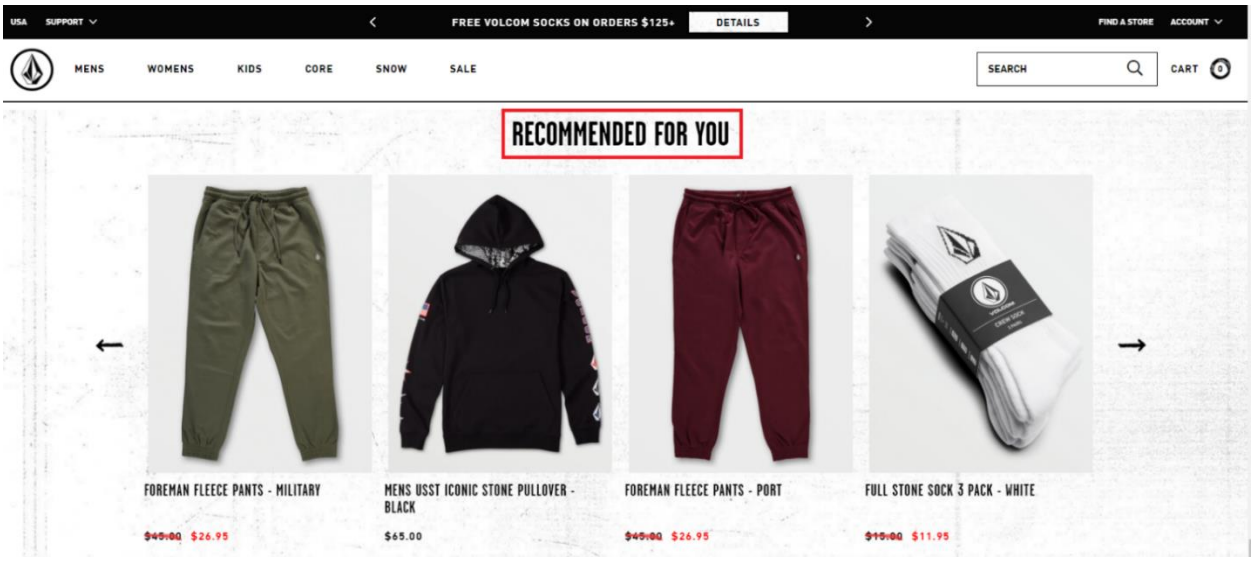
(*E.g.*, https://www.volcom.com/pages/privacy-policy).

4. PURPOSES FOR WHICH WE COLLECT PERSONAL INFORMATION

We collect your personal information for the following reasons:

- Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards;
- Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity;
- Debugging to identify and repair errors that impair existing intended functionality;
- Short-term, transient use, provided the personal information is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction, including, but not limited to, the contextual customization of ads shown as part of the same interaction;
- Performing services on our behalf, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, or providing similar services on our behalf;

(*E.g.*, https://www.volcom.com/pages/privacy-policy).



(*E.g.*, https://www.volcom.com/).

```
checkCount++,r.checkCount>r.checkMax&&window.clearInterval(o)}),r.checkTime)},pars
.split("?")[1]||"":window.location.search).replace(new RegExp("([^?=&]+)(=([^&]*))
"+(n=n||"Lax")+";path=/;";if("https:"==window.location.protocol&&(i+="Secure;"),r)
="domain="+o+";"),window.document.cookie=i},unset:function(e,t){var n=e+"=;path=/;
for(var t=window.document.cookie.split(";"),n=0;n<t.length;n++){for(var r=t[n];" "
turn""}},query:function(e){var t=n(5),o=n(2),i=(e||new o).get("q").pop();return(i=
'\+/g," "))},isScalar:function(e){return"number"==typeof e||("boolean"==typeof e||(
ON.stringify(e))},charsParams:function(e){if("object"!=typeof e)throw new Error("f
y.isArray(o)?t+o.reduce((function(e,t){return e+r+1+(""+t).length}),0):t+r+1+(""+o
n){"use strict";var r={};function o(e,t){if(e)if(-1==e.indexOf(" "))r[e]=r[e]||[],
_UNBINDFALSE__",e.exports={on:o,fire:function(e){var t,n=Array.prototype.slice.cal
eak;if(t===o.UNBINDFALSE){r[e].splice(i--,1),t=!1;break}t===o.UNBIND&&r[e].splice(
or(var n=0;n<e.length;n++)if(e[n]!=t[n])return!1;return!0}function a(e){for(var t=
(var n=0;n<e.length;n++)"string"==typeof e[n]?(e[n]=encodeURIComponent(e[n]),e[n]=
[n]&&(e[n]=this.encode(e[n],t));return e},this.decode=function(e,t){for(var n=0;n<
n]=e[n].replace(/\+/g," "),e[n]=decodeURIComponent(e[n])):"object"==typeof e[n]&&(
g(e)},this.reset=function(){this.updateParameters();var e=[];for(var t in
=window.location.hash;"#"==n[0]&&(n=n.slice(1)),n=n.split("/");for(var r=0;r<n.len
ction(){this.beforeGenerateUrl();var e=this.hashPath(),t=n(5);return this.root+thi
.filter((function(e){if(e.length&&-1==i.indexOf(e[0]))return!0}))},this.params=fun
){var e=this.encode(angular.copy(this.hashies()),!0);a(e);for(var t=0;t<e.length;t
copy(this.params()));for(var n in a(t),i)delete this.parameters[i[n]];for(var r=0;
gular.forEach(Object.keys(this.parameters),(function(t,n){e+=t+
length-1&&(e+="&")}))}return e},this.go=function(){var e=new RegExp(this.url().spl
&window.history.pushState&&t?window.history.pushState({},"",this.url()):window.loc
=[],r=0;r<this.path.length;r++){var o=this.path[r].length;t<=o&&s(e,this.path[r].s
ice.call(arguments);return this.path.push(e),this},this.remove=function(){for(var
is.path.splice(n,1)}return this},this.bind=function(e){this.bound=e,e.location=thi
gular.copy(this.path),e.parameters=angular.copy(this.parameters),e.root=this.root,e
dow.location.href.split("#")[0].split("?")[0];var e=n(5);void 0===e.hashOnly&&
sh("rejectedQuery"),i.push("sq"),i.push("queryAssumption"),e.queryParams&&
```

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js).

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js).

30. The Accused Instrumentality practices receiving an advertisement selected in accordance to the user demographic information (*e.g.*, volcom.com provides advertisements to a user based on demographic information such as age, gender, language, interest, activity, etc.). (*E.g.*, https://www.volcom.com/pages/privacy-policy). As shown below, targeted advertisement is implemented using location and demographic information provided by the user.

2. PERSONAL INFORMATION WE COLLECT

We collect personal information at every touch point or consumer interaction, and in conducting every aspect of our business, we may collect personal information. This personal information may include your first name; last name; account name; alias name; email address; postal address; phone number; birth month and day; age; gender; characteristics; preferences; credit and debit card numbers; purchase history; products considered; customer reviews; user generated photos; customer service chat content; customer service email content; customer service call content; email engagement activity; loyalty status; loyalty interactions; loyalty join date; tier name; spend to next tier; lifetime points; available points; points to next reward; last earned points; points expiration; available rewards; reward earned date; last activity date; referral interactions; IP address; cookie ID; user ID; authenticated user ID; browser user ID; shop subscriber ID; account utoken; domain; browser ID; browser GUID; browser information; device ID; other unique device identifiers; device type; device model; platform; operating system type; operating system configuration; other sysem information; advertisement interactions; website browsing history; website click tracking; website search history; website browsing behavior; website access date; website access time; web log data; referring websites; exiting websites; geolocation; time zone; country code; click tracking; audience segments; and other types of information that you choose to provide us or that we may obtain about you.

Various demographic information collected by Volcom

Text Marketing and Notifications. By entering your phone number in the checkout & opting into receiving text message notification and initializing a purchase, subscribing via one of our text message subscription forms or via a keyword, you agree that we may send you text notifications (for your order, including abandoned cart reminders) and text marketing offers. Text marketing messages will not exceed five (5) a month. You acknowledge that consent is not a condition for any purchase. If you wish to unsubscribe from receiving text marketing messages and notifications reply with **STOP** to any mobile message sent from us or use the unsubscribe link we provided you with in any of our messages. You understand and agree that alternative methods of opting out, such as using alternative words or requests will not be accounted as a reasonable means of opting out. Message and data rates may apply. For any questions please text **HELP** to the number you received the messages from. You can also contact us for more information. If you wish to opt out please follow the procedures above.

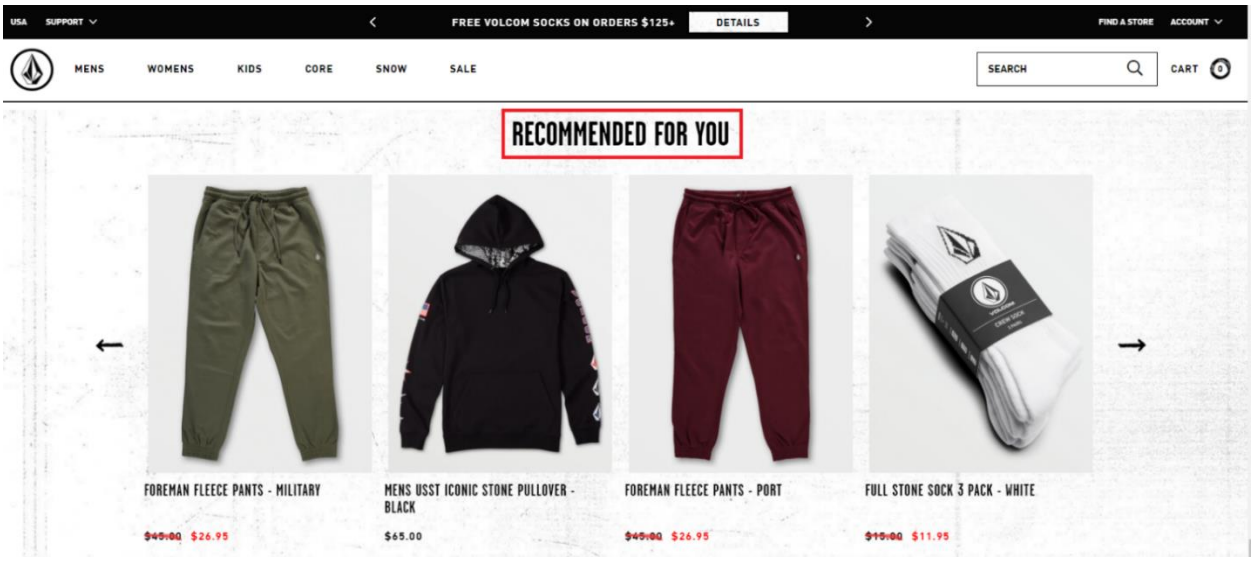
(*E.g.*, https://www.volcom.com/pages/privacy-policy).

4. PURPOSES FOR WHICH WE COLLECT PERSONAL INFORMATION

We collect your personal information for the following reasons:

- Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards;
- Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity;
- Debugging to identify and repair errors that impair existing intended functionality;
- Short-term, transient use, provided the personal information is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction, including, but not limited to, the contextual customization of ads shown as part of the same interaction;
- Performing services on our behalf, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, or providing similar services on our behalf;

(*E.g.*, https://www.volcom.com/pages/privacy-policy).



(*E.g.*, https://www.volcom.com/).

31. The Accused Instrumentality practices executing the template program (*e.g.*, JavaScript templates) using the selected advertisement (*e.g.*, an advertisement selected based on a user's demographic information) to generate the customized page (*e.g.*, a user's page, with the advertisement integrated). As shown below, targeted advertisement is implemented using location and demographic information provided by the user.

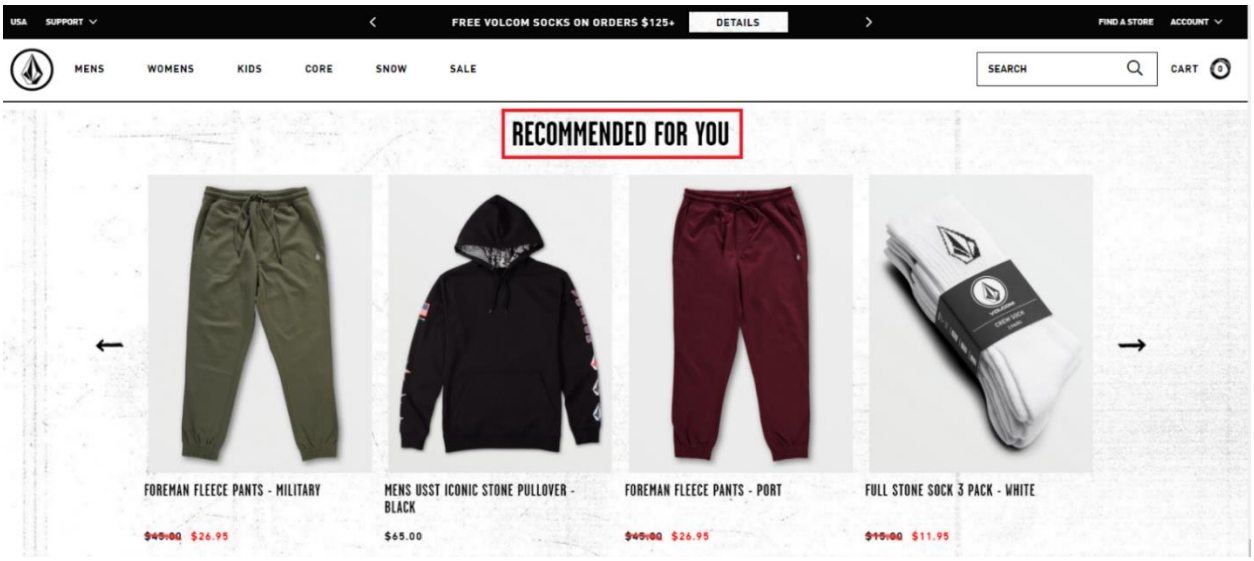
2. PERSONAL INFORMATION WE COLLECT

We collect personal information at every touch point or consumer interaction, and in conducting every aspect of our business, we may collect personal information. This personal information may include your first name; last name; account name; alias name; email address; postal address; phone number; birth month and day; age; gender; characteristics; preferences; credit and debit card numbers; purchase history; products considered; customer reviews; user generated photos; customer service chat content; customer service email content; customer service call content; email engagement activity; loyalty status; loyalty interactions; loyalty join date; tier name; spend to next tier; lifetime points; available points; points to next reward; last earned points; points expiration; available rewards; reward earned date; last activity date; referral interactions; IP address; cookie ID; user ID; authenticated user ID; browser user ID; shop subscriber ID; account utoken; domain; browser ID; browser GUID; browser information; device ID; other unique device identifiers; device type; device model; platform; operating system type; operating system configuration; other sysem information; advertisement interactions; website browsing history; website click tracking; website search history; website browsing behavior; website access date; website access time; web log data; referring websites; exiting websites; geolocation; time zone; country code; click tracking; audience segments; and other types of information that you choose to provide us or that we may obtain about you.

Various demographic information collected by Volcom

Text Marketing and Notifications. By entering your phone number in the checkout & opting into receiving text message notification and initializing a purchase, subscribing via one of our text message subscription forms or via a keyword, you agree that we may send you text notifications (for your order, including abandoned cart reminders) and text marketing offers. Text marketing messages will not exceed five (5) a month. You acknowledge that consent is not a condition for any purchase. If you wish to unsubscribe from receiving text marketing messages and notifications reply with **STOP** to any mobile message sent from us or use the unsubscribe link we provided you with in any of our messages. You understand and agree that alternative methods of opting out, such as using alternative words or requests will not be accounted as a reasonable means of opting out. Message and data rates may apply. For any questions please text **HELP** to the number you received the messages from. You can also contact us for more information. If you wish to opt out please follow the procedures above.

(*E.g.*, https://www.volcom.com/pages/privacy-policy).



(*E.g.*, https://www.volcom.com/).

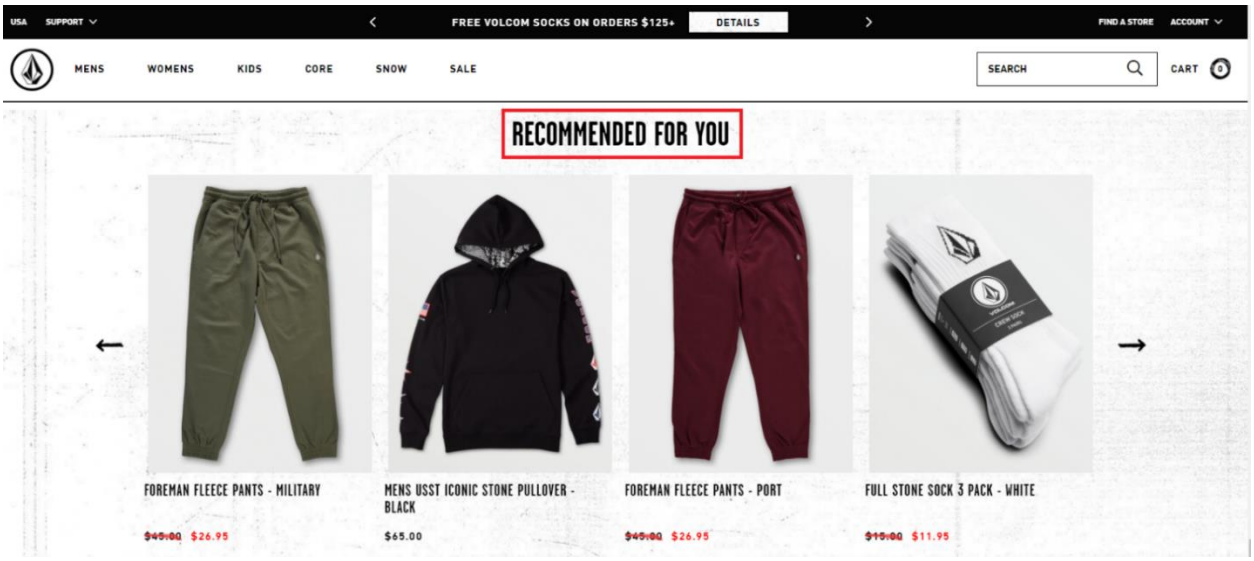
32. The Accused Instrumentality practices providing the customized page to the user (*e.g.*, a user's volcom.com page, with integrated advertisements). As shown below, targeted advertisement is implemented using location and demographic information provided by the user.

4. PURPOSES FOR WHICH WE COLLECT PERSONAL INFORMATION

We collect your personal information for the following reasons:

- Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards;
- Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity;
- Debugging to identify and repair errors that impair existing intended functionality;
- Short-term, transient use, provided the personal information is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction, including, but not limited to, the contextual customization of ads shown as part of the same interaction;
- Performing services on our behalf, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, or providing similar services on our behalf;

(*E.g.*, https://www.volcom.com/pages/privacy-policy).



(*E.g.*, https://www.volcom.com/).

33. The Accused Instrumentality uses demographic information configured by a user and utilized for advertisement service includes at least location information, sex, and age (*e.g.*, a location obtained by and/or sex and age obtained by volcom.com).

34. On information and belief, the Accused Instrumentality product must include a computer readable non-transitory medium (*e.g.*, servers) tangibly storing computer instructions (*e.g.*, code including HTML, JS, CSS, etc.) for a processor (*e.g.*, servers and/or user computers).

35. The Accused Instrumentality uses demographic information configured by a user and utilized for advertisement service includes at least location information, sex, and age (*e.g.*, a location obtained and/or sex and age obtained by volcom.com).

36. On information and belief, the Accused Instrumentality must include logic for completing all of the steps cited in claim 15 and 1.

37. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '854 patent, *i.e.*, in an amount that by law cannot

be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

38. On information and belief, Defendant has had at least constructive notice of the '854 patent by operation of law, and there are no marking requirements that have not been complied with.

IV. COUNT II
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 5,983,227)

39. Plaintiff incorporates the above paragraphs herein by reference.

40. On November 9, 1999, United States Patent No. 5,983,227 ("the '227 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '227 Patent is titled "Dynamic Page Generator." A true and correct copy of the '227 Patent is attached hereto as Exhibit B and incorporated herein by reference.

41. Digi Portal is the assignee of all right, title and interest in the '227 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '227 Patent. Accordingly, Digi Portal possesses the exclusive right and standing to prosecute the present action for infringement of the '227 Patent by Defendant.

42. The application leading to the '227 patent was filed June 12, 1997. (Ex. B at cover). The '227 patent was first assigned to Yahoo! Inc. (*Id.*).

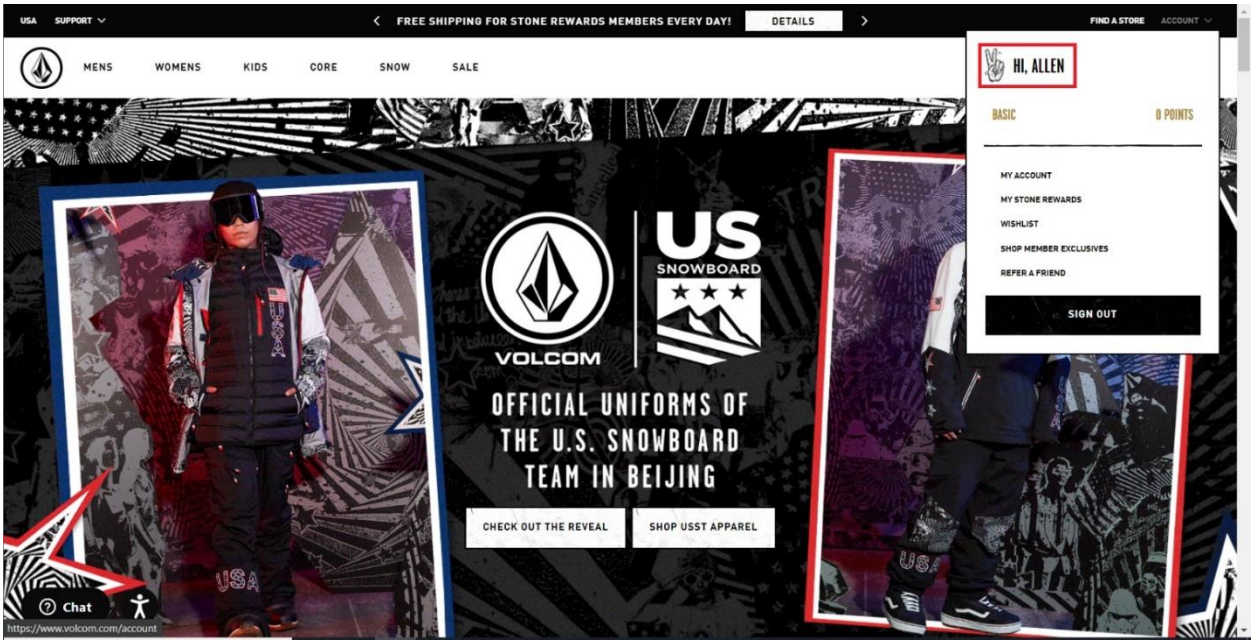
43. The invention in the '227 Patent relates to the field of customized information presentation on the web; more specifically, providing customized pages that are quickly served and scalable to handle many users simultaneously. (*Id.* at col. 1:14-18).

44. The '227 Patent shares the identical specification as the '854 patent and therefore Digi Portal incorporates the background and discussion of the invention in Paragraphs 13-25. Furthermore, as show in the prosecution history of the '227 Patent, it was unconventional to

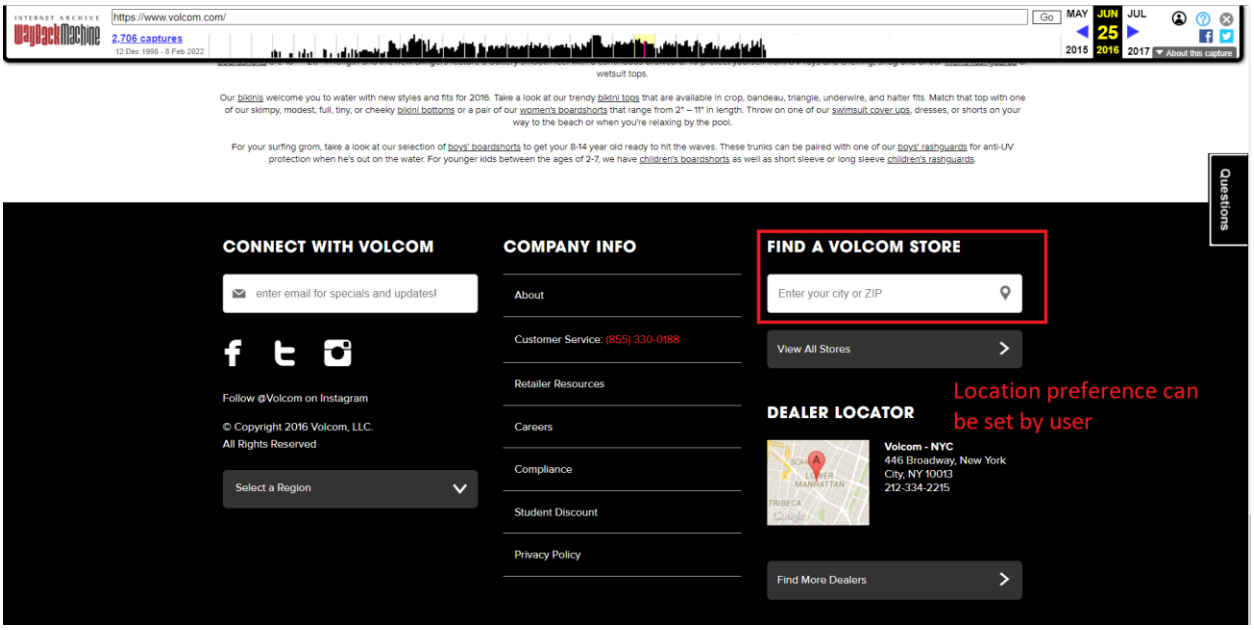
download real-time information into a server and use a template for the static data as opposed to linking directly to real-time information. (Ex. E at 5, Ex. F at 2).

45. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing at least claim 2 of the '227 patent in Delaware, and elsewhere in the United States, by performing actions comprising using or performing the claimed method of providing real-time responses to user requests for customized pages, including without limitation through the method implemented of providing a user's volcom.com page ("Accused Instrumentality"). (*E.g.*, https://www.volcom.com/).

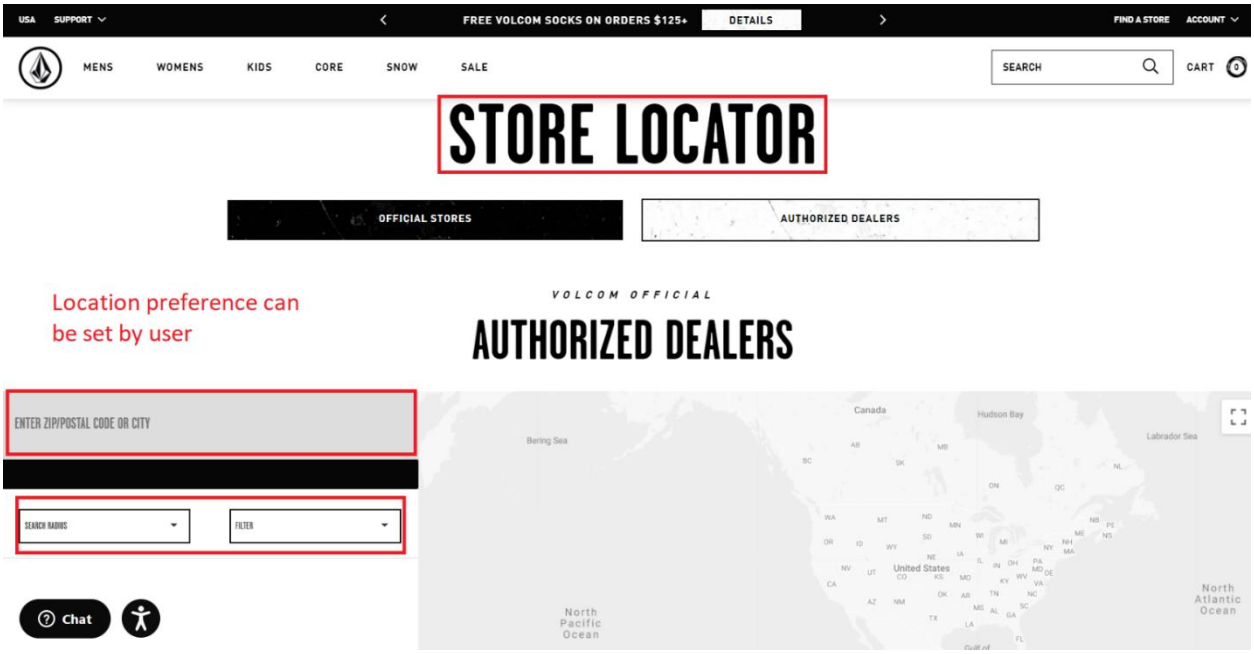
46. The Accused Instrumentality uses a page server (*e.g.*, a volcom.com server) that provides real-time responses (*e.g.*, generating user-specific customized web pages in real-time) in response to user requests for customized pages as shown below. At the very least, the volcom.com server will respond to a user's request for a webpage by providing a generic template which may be subsequently modified at a user's browser. In at least testing and usage, the accused instrumentality practices a method for receiving a user request (*e.g.*, a user login request, search initiation, etc.) for a customized page (*e.g.*, a user's customized home and search pages on the volcom.com).



(*E.g.*, https://www.volcom.com/).

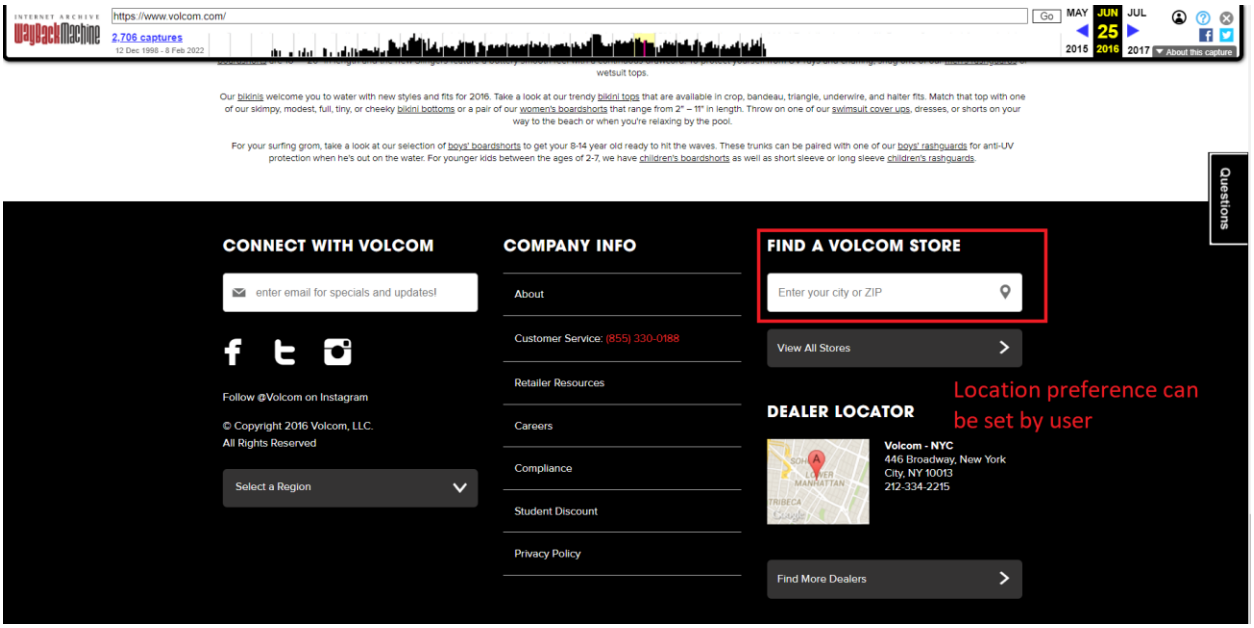


(*E.g.*, https://web.archive.org/web/20160625094152/https://www.volcom.com/).

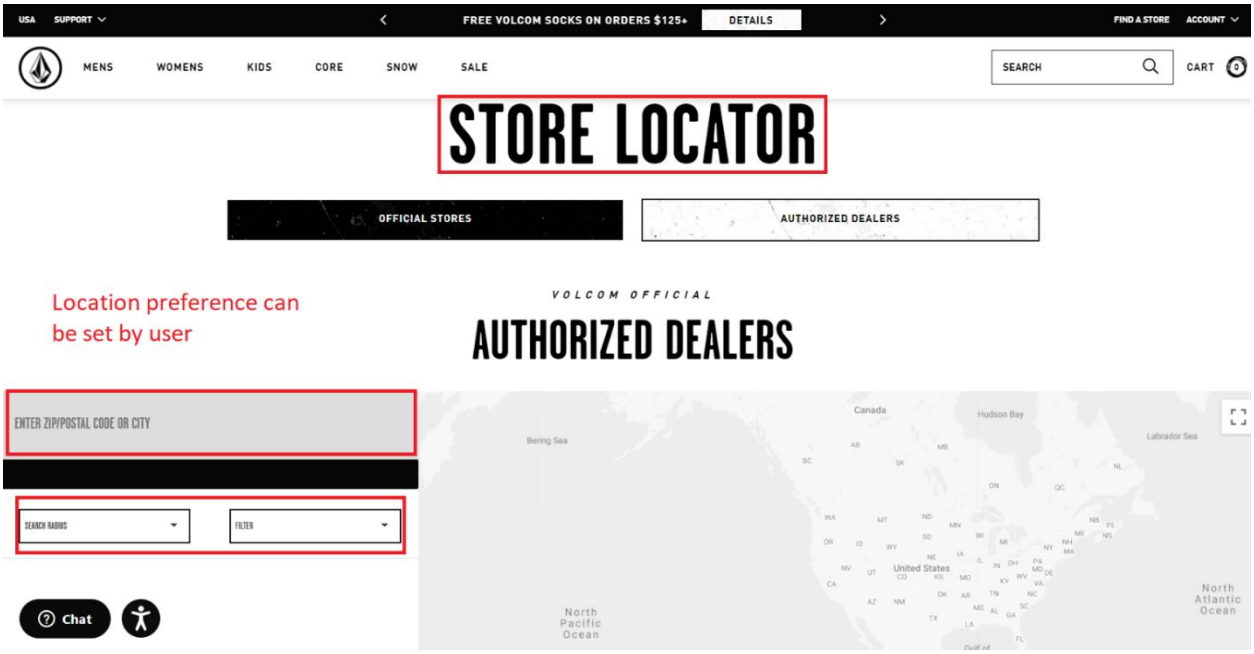


(*E.g.*, https://www.volcom.com/pages/store-locator).

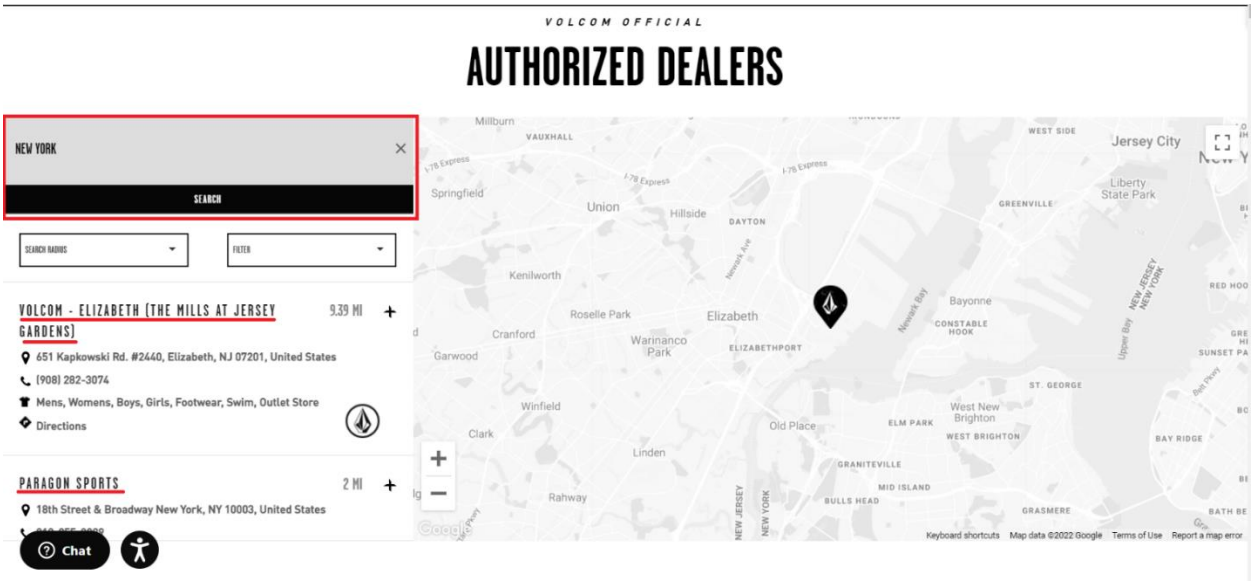
47. The Accused Instrumentality obtains user preferences (*e.g.*, state, city, pin or store names, etc.), wherein a user's preferences indicate items of interest to that user (*e.g.*, preferences set by user for store search).



(*E.g.*, https://web.archive.org/web/20160625094152/https://www.volcom.com/).



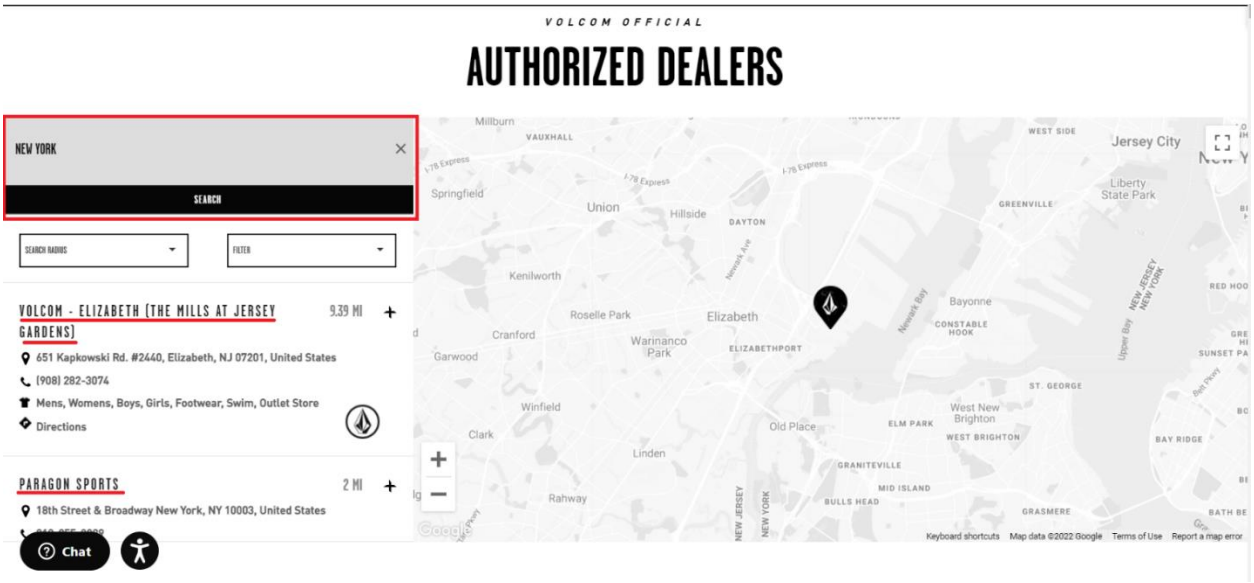
(*E.g.*, https://www.volcom.com/pages/store-locator).



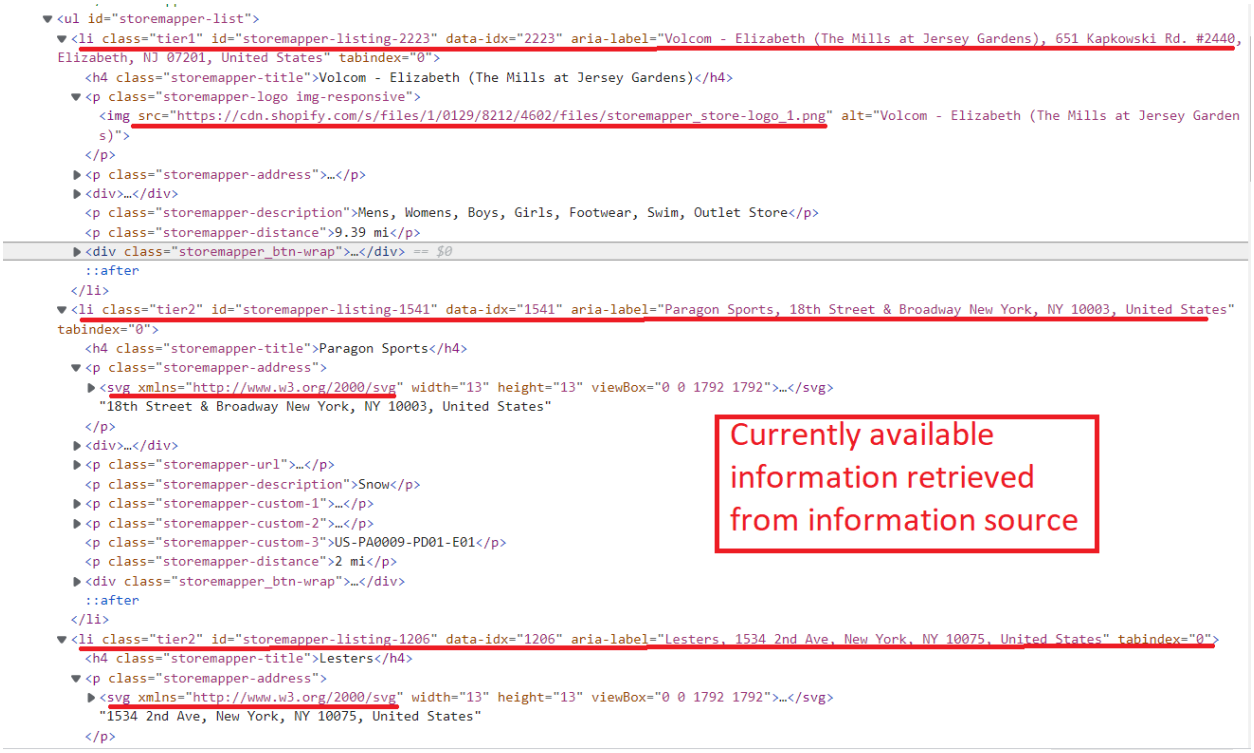
(*E.g.*, https://www.volcom.com/pages/store-locator).

48. On information and belief, the Accused Instrumentality obtains real-time information from information sources (*e.g.*, currently available store information obtained from various information sources such as a multitude of databases); and stores the real-time information in a storage device (*e.g.*, currently available store information will be pulled from an information

source and stored, at least temporarily, on the volcom.com web/API server and/or user's computer). The code below shows volcom.com pulling store information from information sources.

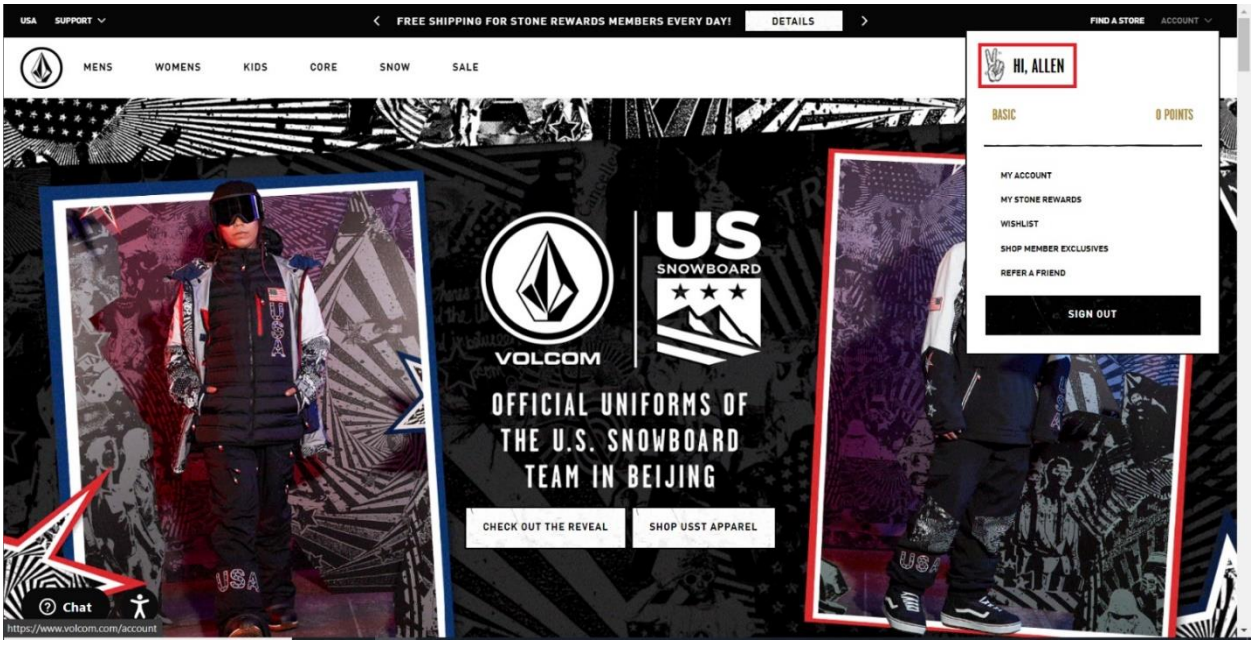


(*E.g.*, https://www.volcom.com/pages/store-locator).

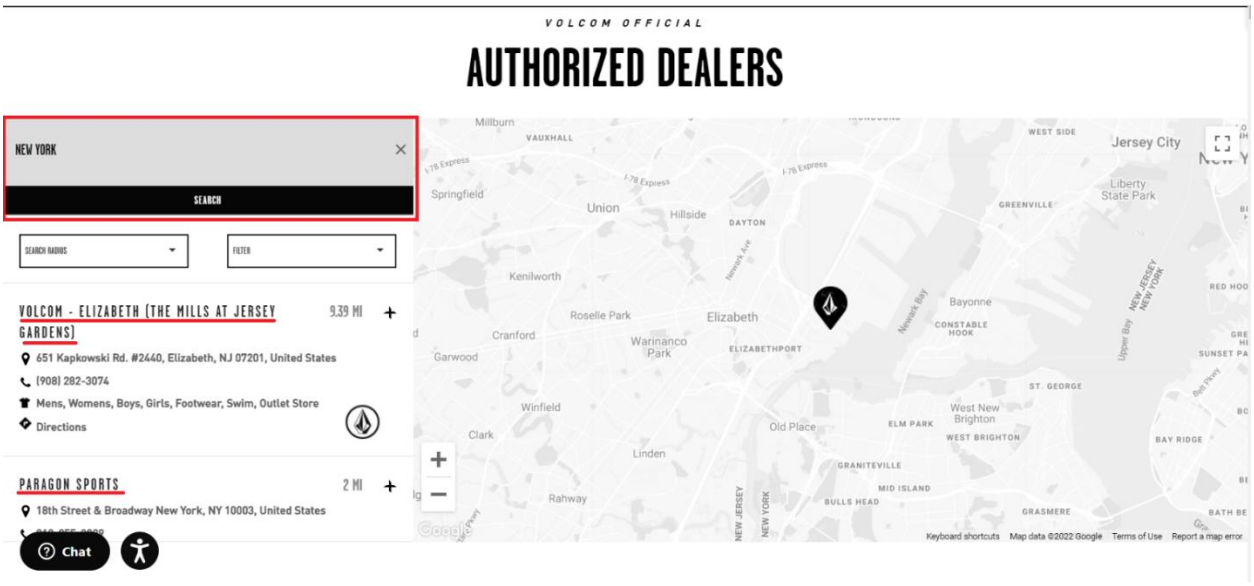


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

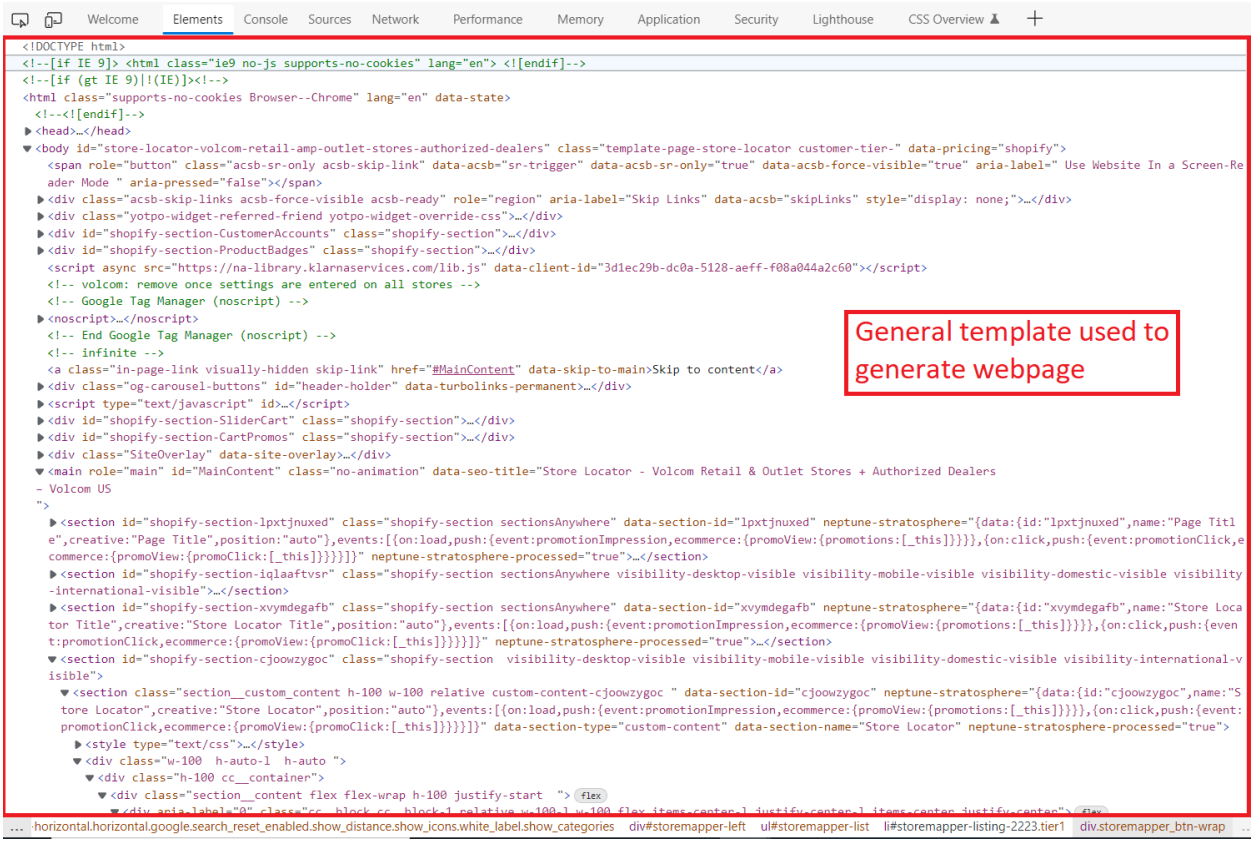
49. On information and belief, the Accused Instrumentality combines the user preferences (*e.g.*, user preferences include preferences tied to a user's account which are pulled upon user login and the search terms inputted by a user such as preferences set by user for store search) for the user and a template (*e.g.*, a generic webpage template) to form a template program specific to a user (*e.g.*, following a user's login, a user specific template will be used to create customized pages for user that display user-specific information such as the user's name and search results). As shown below, volcom.com uses a generic template to define how the webpage should generally be laid out and displayed. Further, volcom.com will then combine the template with customized data pulled based upon a user's search inputs and user login in order to create a template program executable by a user's browser, so that the customized webpage can be displayed to the user.



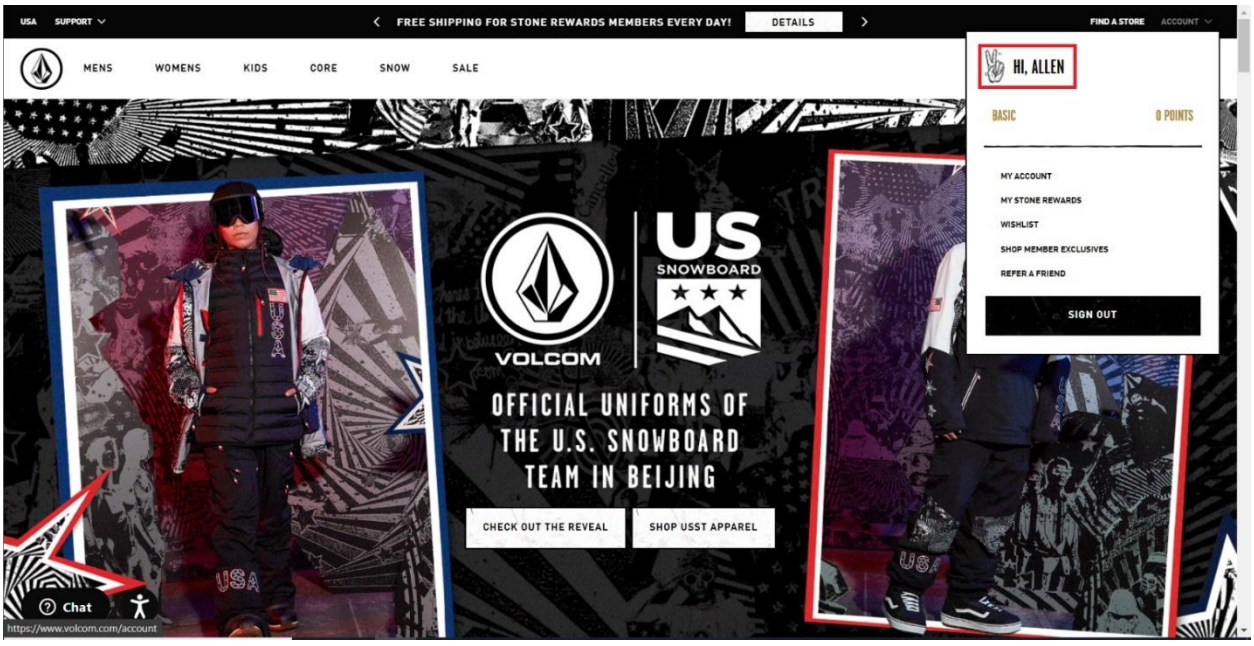
(*E.g.*, https://www.volcom.com/).



(*E.g.*, https://www.volcom.com/pages/store-locator).



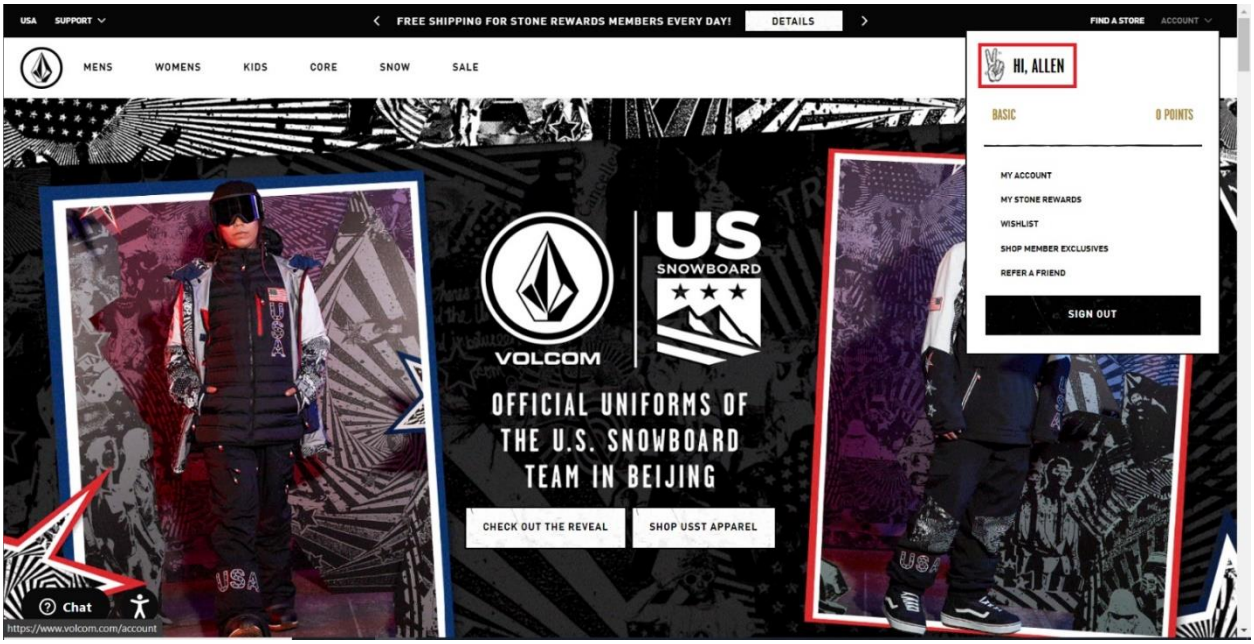
(*E.g.*, https://www.volcom.com/pages/store-locator).



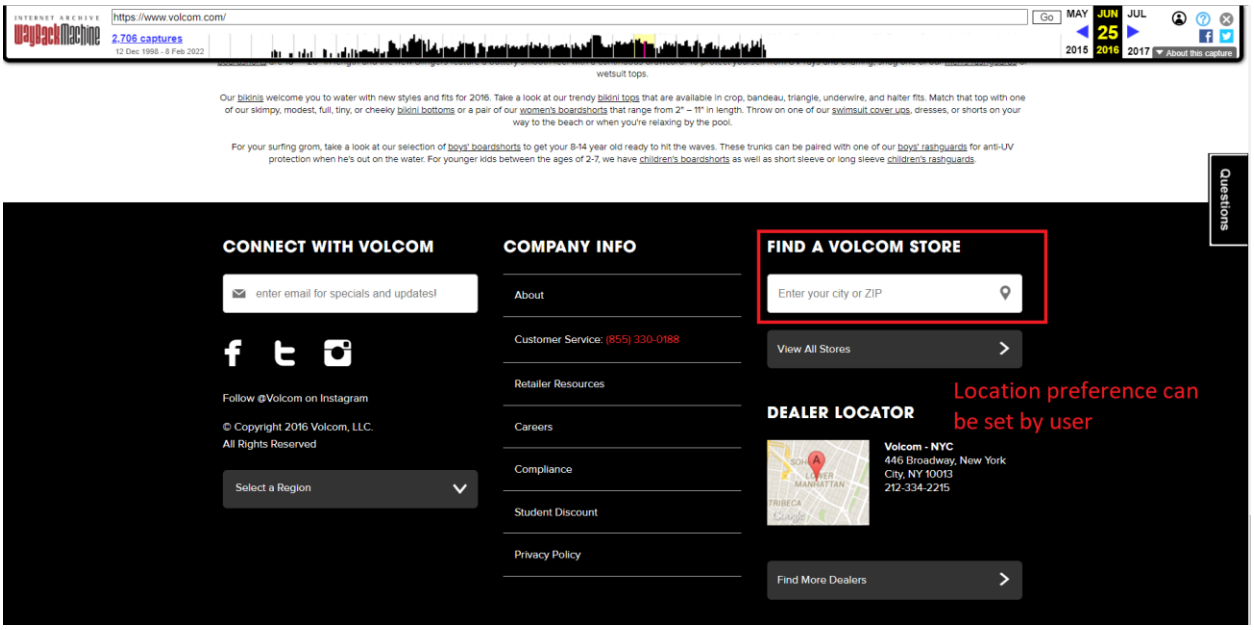
(*E.g.*, https://www.volcom.com/).

(*E.g.*, https://www.volcom.com/pages/store-locator).

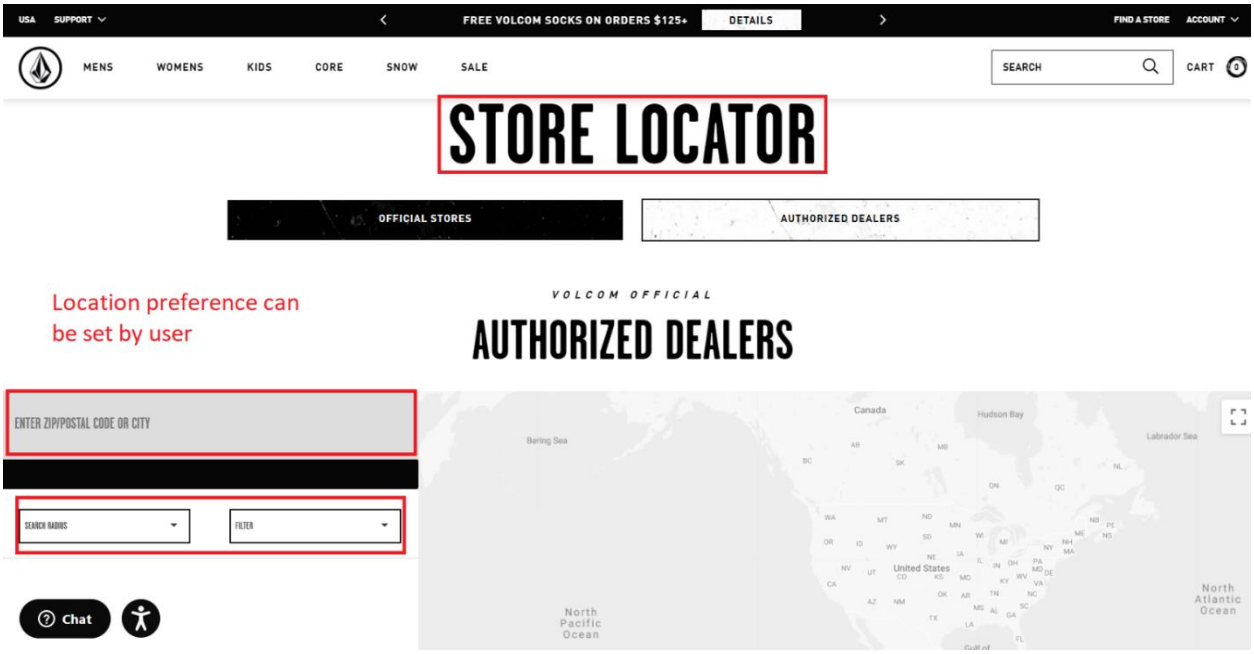
50. On information and belief, the Accused Instrumentality receives, from a user and at the server, a user request for a customized page customized according to the user preferences (*e.g.*, a user will request a customized page by logging in and by inputting search parameters; this request will be received at the volcom.com web server).



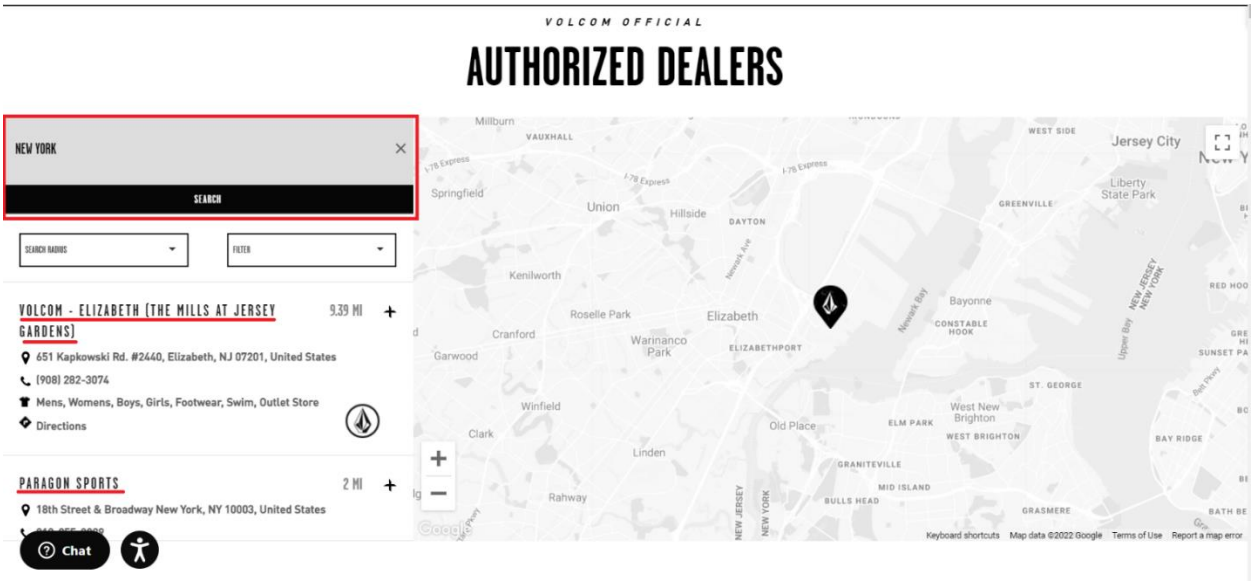
(*E.g.*, https://www.volcom.com/).



(*E.g.*, https://web.archive.org/web/20160625094152/https://www.volcom.com/).



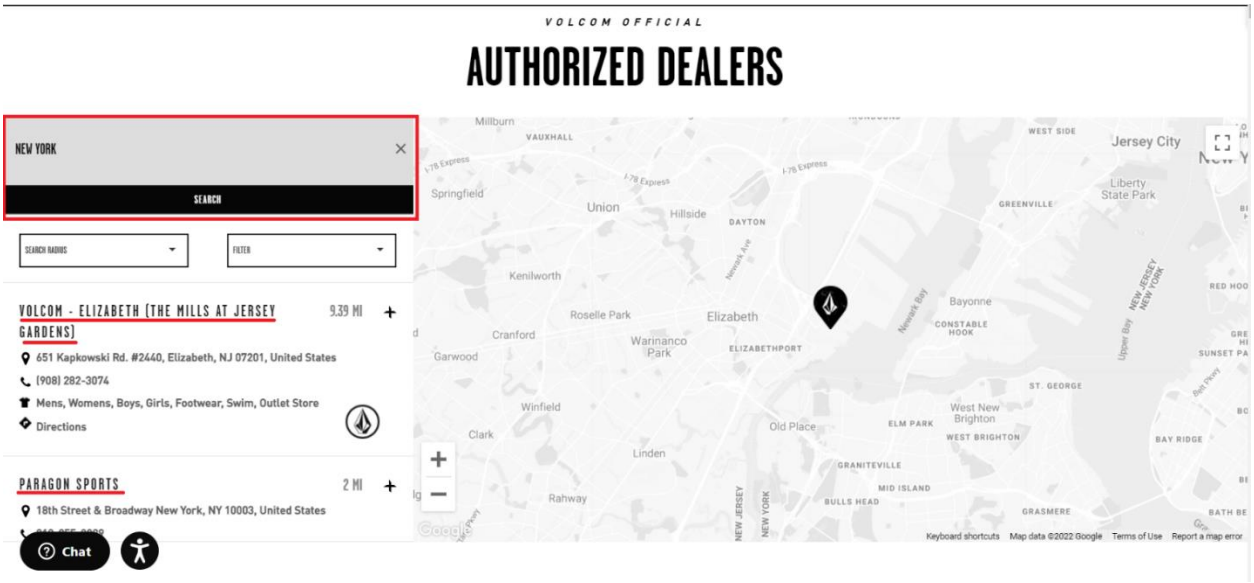
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



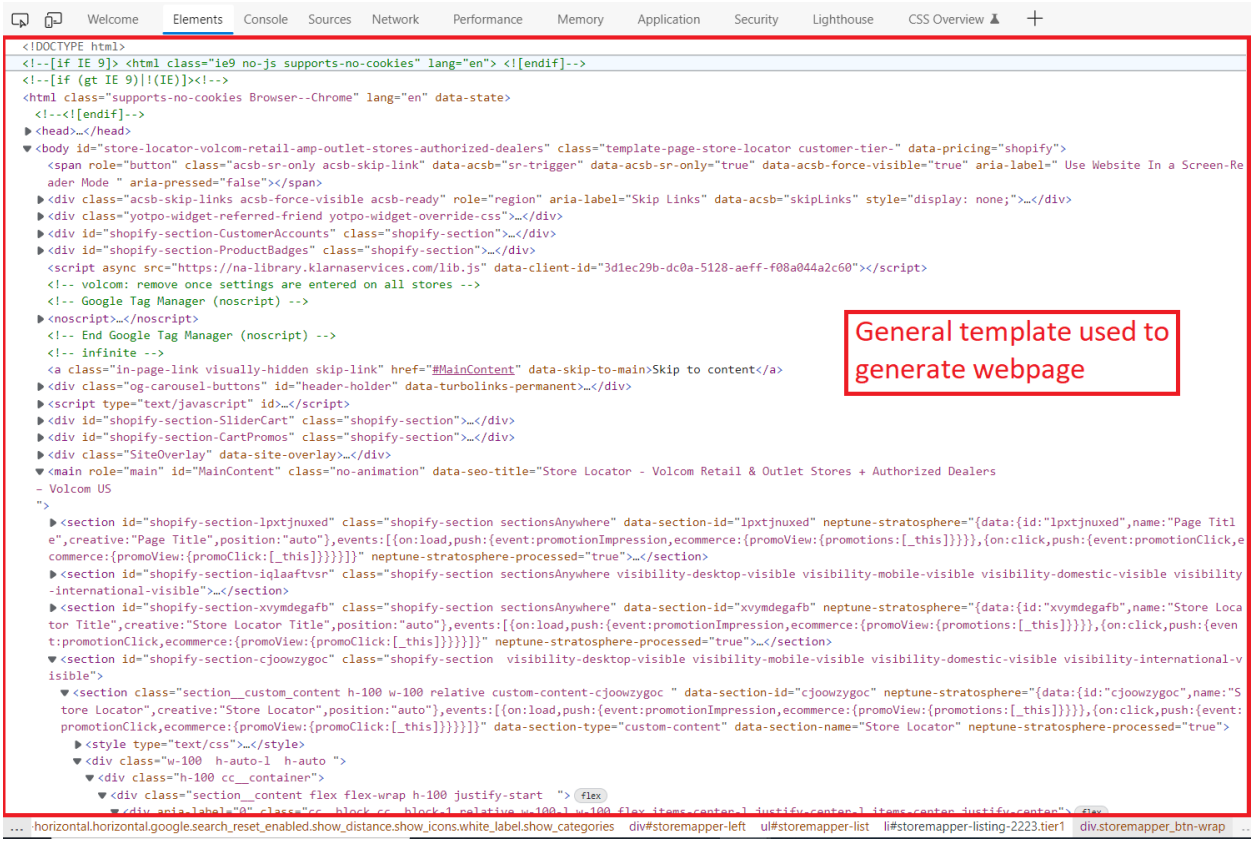
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

51. The Accused Instrumentality executes the template program (*e.g.*, the code for the website which includes code that defines the general layout of the webpage, and defines customized information to be displayed such as a user's name, and other pieces of real-time information, such as store availabilities, gathered from information source using various APIs and

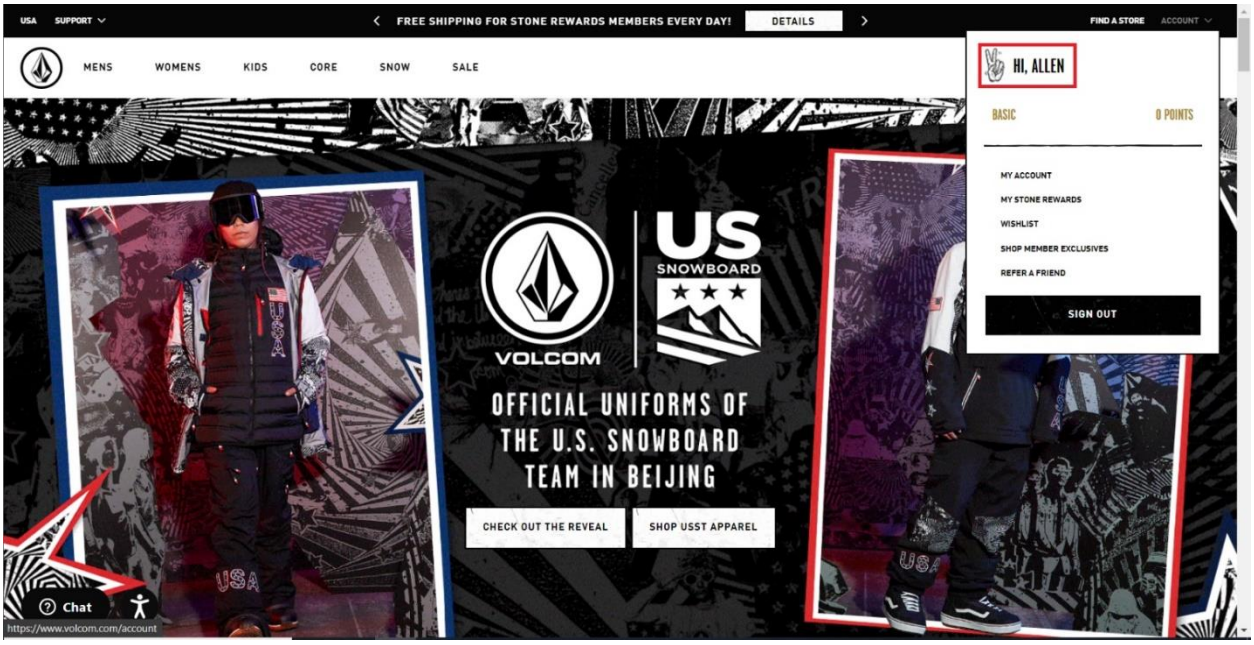
scripts) specific to the user (*e.g.*, the webpage is catered towards the user's search queries and displays customized content such as the user's name) using real-time information stored in the storage device (*e.g.*, store availabilities will be gathered from information source using an API and/or scripts, and stored, at least temporarily, on a volcom.com web server and/or user's computer) as input to the template program to generate the customized page (*e.g.*, the store availabilities will be gathered and combined with a webpage template to create the entire webpage). As shown below, volcom.com uses a generic template to define how the webpage should generally be laid out and displayed. Volcom.com will then combine the template with customized data pulled based upon a user's search inputs and user login in order to create a template program executable by a user's browser, so that a customized webpage can be displayed to the user.



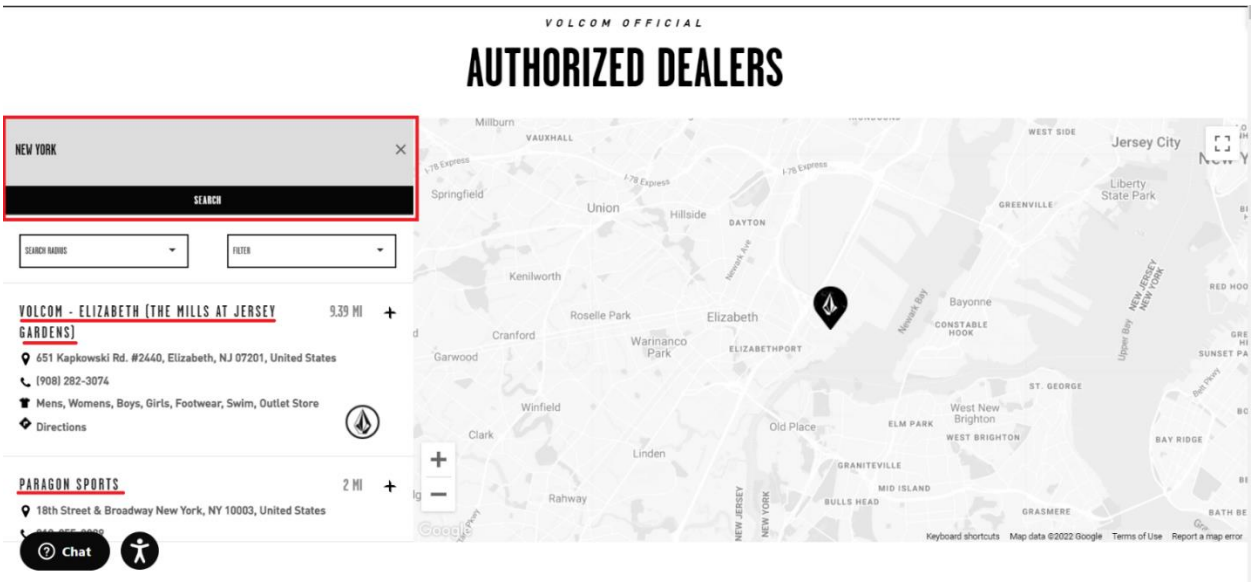
(*E.g.*, https://www.volcom.com/pages/store-locator).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



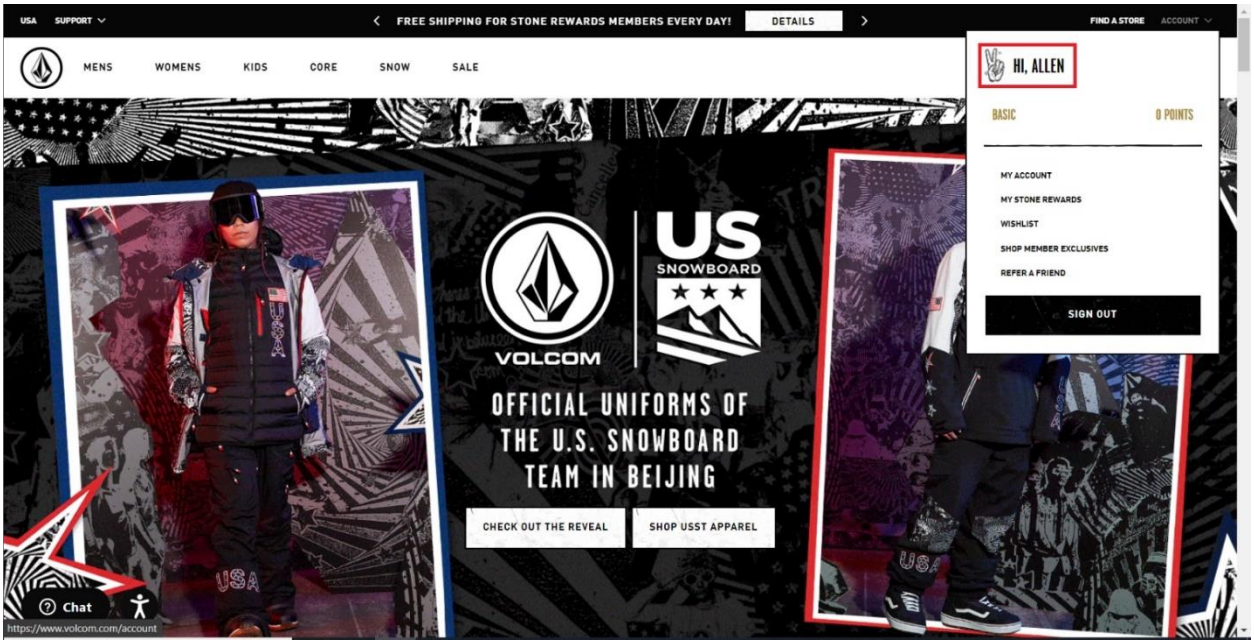
(*E.g.*, https://www.volcom.com/).



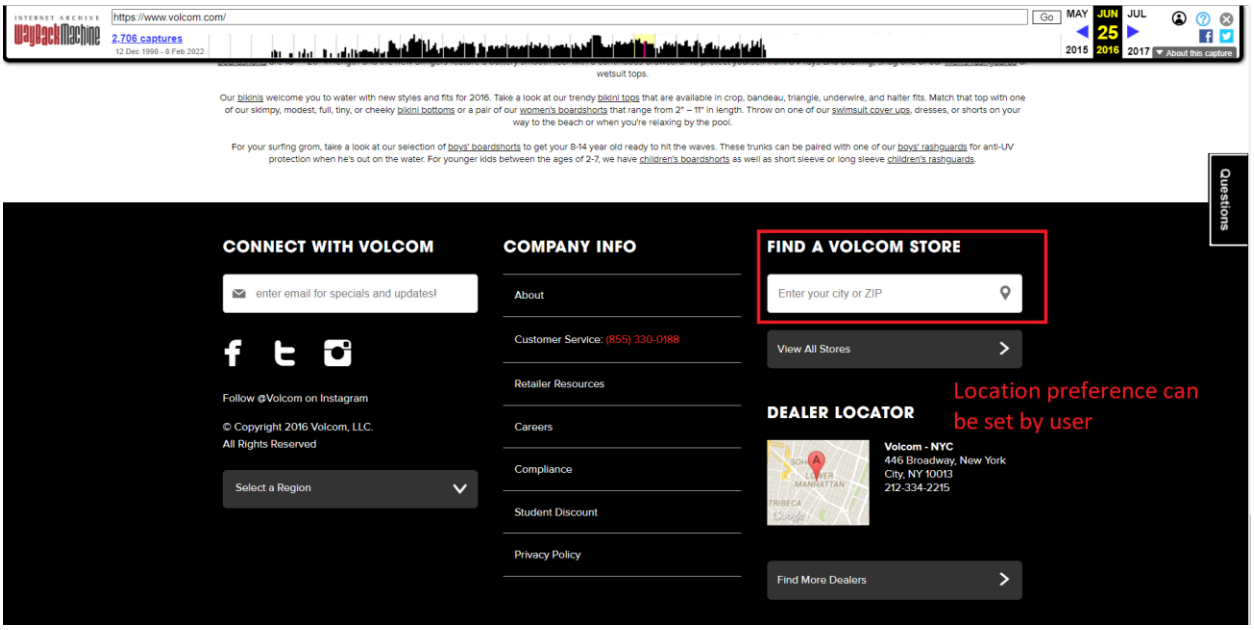
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

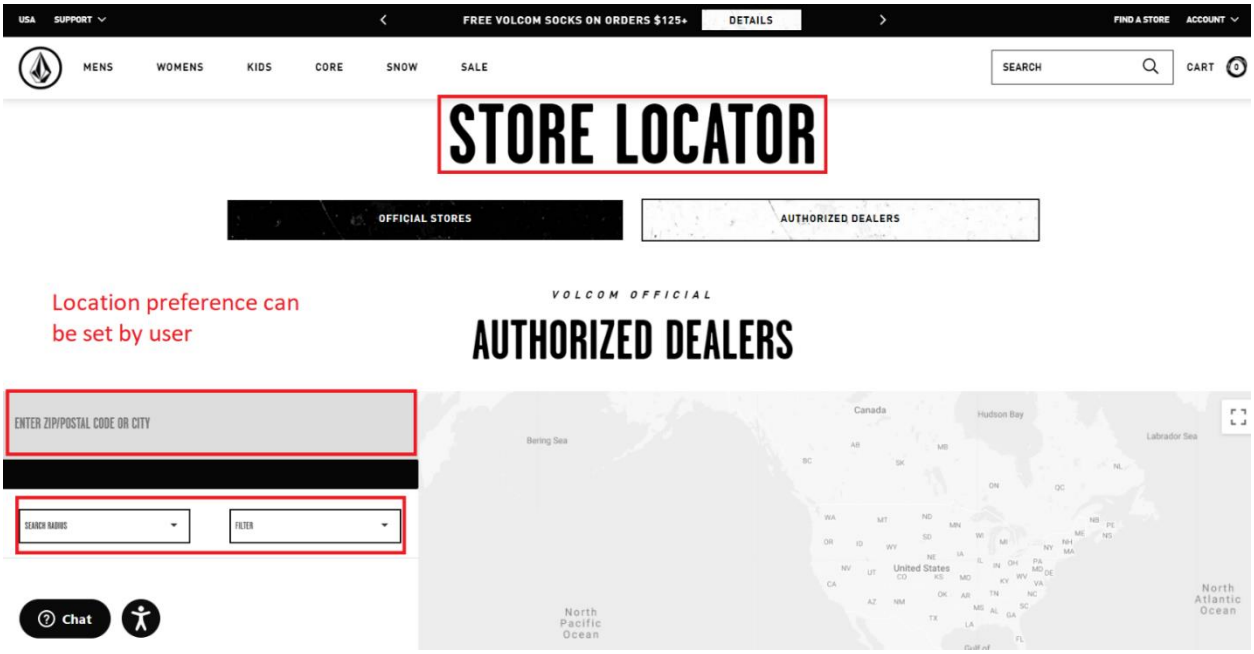
52. The Accused Instrumentality provides the user with the customized page (*e.g.*, a webpage showing store that meet a user's search requirements and which displays user specific content such as the user's name) wherein the steps of executing and providing are performed in real-time response to the receipt of the user request in the step of receiving (*e.g.*, webpages are created and delivered in real-time as the result of a user login and/or search initiation) wherein the customized page includes at least one item of real-time information selected from the storage device (*e.g.*, current store availability).



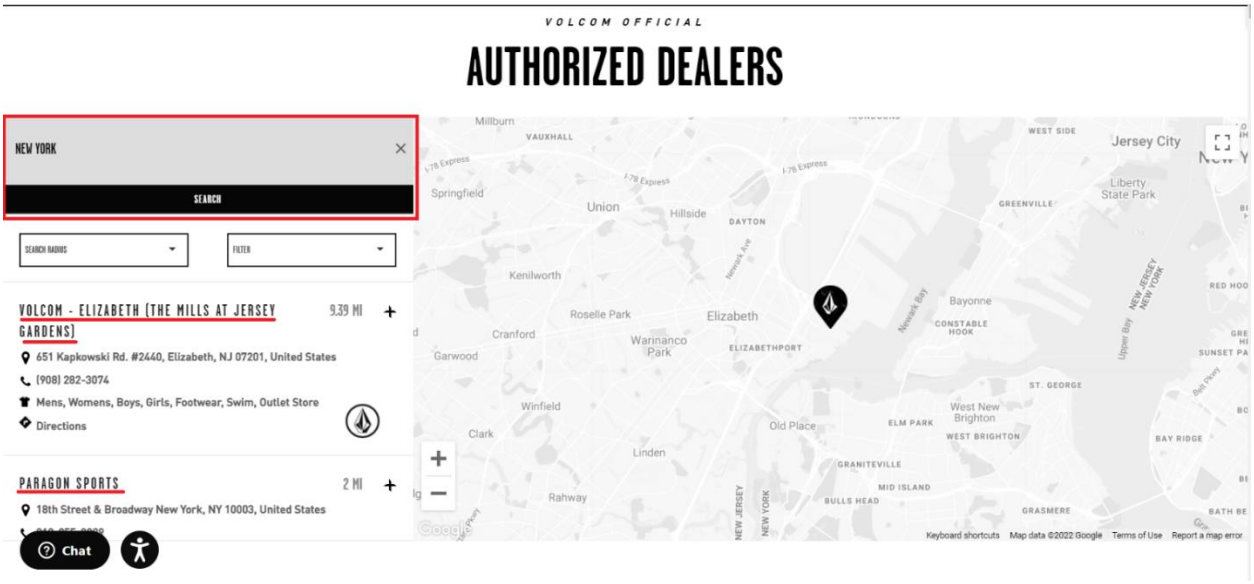
(*E.g.*, https://www.volcom.com/).



(*E.g.*, https://web.archive.org/web/20160625094152/https://www.volcom.com/ (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator).

53. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '227 patent, *i.e.*, in an amount that by law cannot

be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

54. On information and belief, Defendant has had at least constructive notice of the '227 patent by operation of law, and there are no marking requirements that have not been complied with.

V. COUNT III
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,171,414)

55. Plaintiff incorporates the above paragraphs herein by reference.

56. On January 30, 2007, United States Patent No. 7,171,414 ("the '414 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '414 Patent is titled "Dynamic Page Generator." A true and correct copy of the '414 Patent is attached hereto as Exhibit G and incorporated herein by reference.

57. Digi Portal is the assignee of all right, title and interest in the '414 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '414 Patent. Accordingly, Digi Portal possesses the exclusive right and standing to prosecute the present action for infringement of the '414 Patent by Defendant.

58. The application leading to the '414 patent was filed September 10, 1999, which was a continuation of application no. 08/873,975, which issued as the '227 patent. (Ex. G at cover). The '414 patent was first assigned to Yahoo! Inc. (*Id.*).

59. The invention in the '414 Patent relates to the field of customized information presentation on the web; more specifically, providing customized pages that are quickly served and scalable to handle many users simultaneously. (*Id.* at col. 1:29-33).

60. The '414 Patent shares the identical specification as the '854 patent and therefore Digi Portal incorporates the background and discussion of the invention in Paragraphs 13-25.

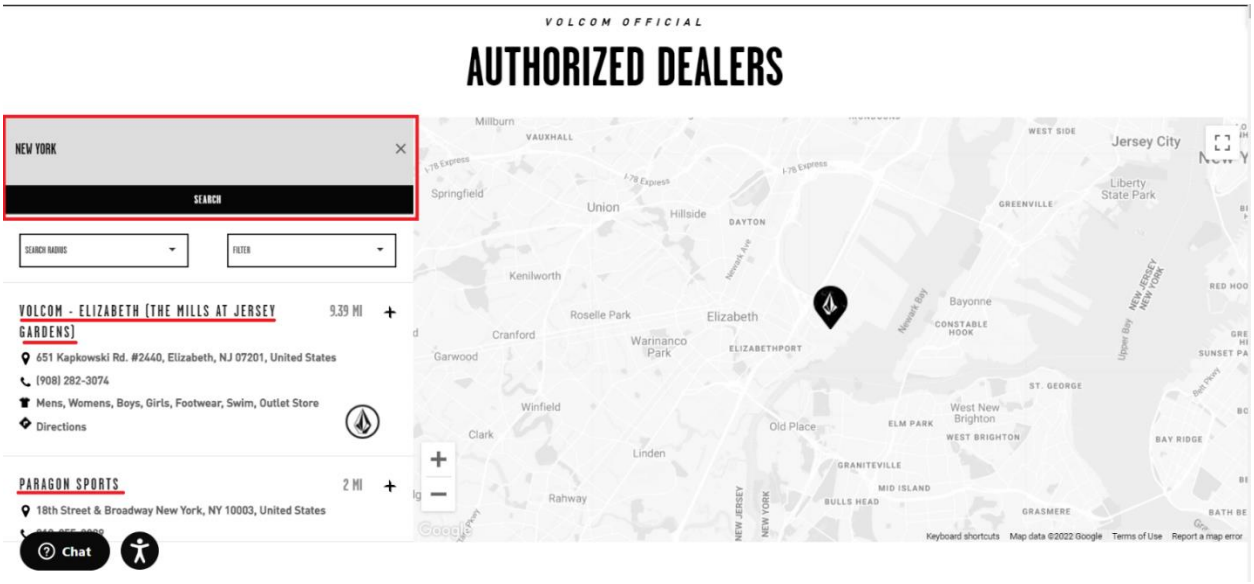
Furthermore, the prosecution history of the '414 patent highlights advantages and unconventional features of the claimed invention including the "storing real-time information in a shared local storage device." An example of this limitation is when live data used to fill templates is stored local to the page server which is handling user requests for custom web pages. (Ex. I at 8; Ex. G at col. 2:11-15). Every piece of information that a person can request on a page is storable in a shared memory closely coupled to a page generator. (Ex. I at 9; Ex. G at col. 4:43-58). Unlike the prior art CGI process that required time consuming calls to other servers, storing real-time information in a shared local storage device, allows for any custom page to be built within the page server thereby eliminating the need to make requests from other servers for portions of the live data. (Ex. I at 9; Ex. G at col. 2:25-31).

61. Furthermore, as show in the prosecution history of the '414 Patent, it was unconventional to receive the template program from one of at least two location, the frequency of the user request for the customized page determines the retrieval location of the template program. (Ex. H at 9-10). In the prior art, the published web site was stored on a server and provided from one server location regardless of the frequency of the user requests for the web site. (*Id.*). The examiner agreed that the claim was allowable because the prior art did not disclose that in a page server coupled to a network a method of providing a customized page to a user, the customized page is customized according to the user's preferences, and the template is received from one of at least two locations, the location determined from frequency of the user request for the customized page. (Ex. J at 3).

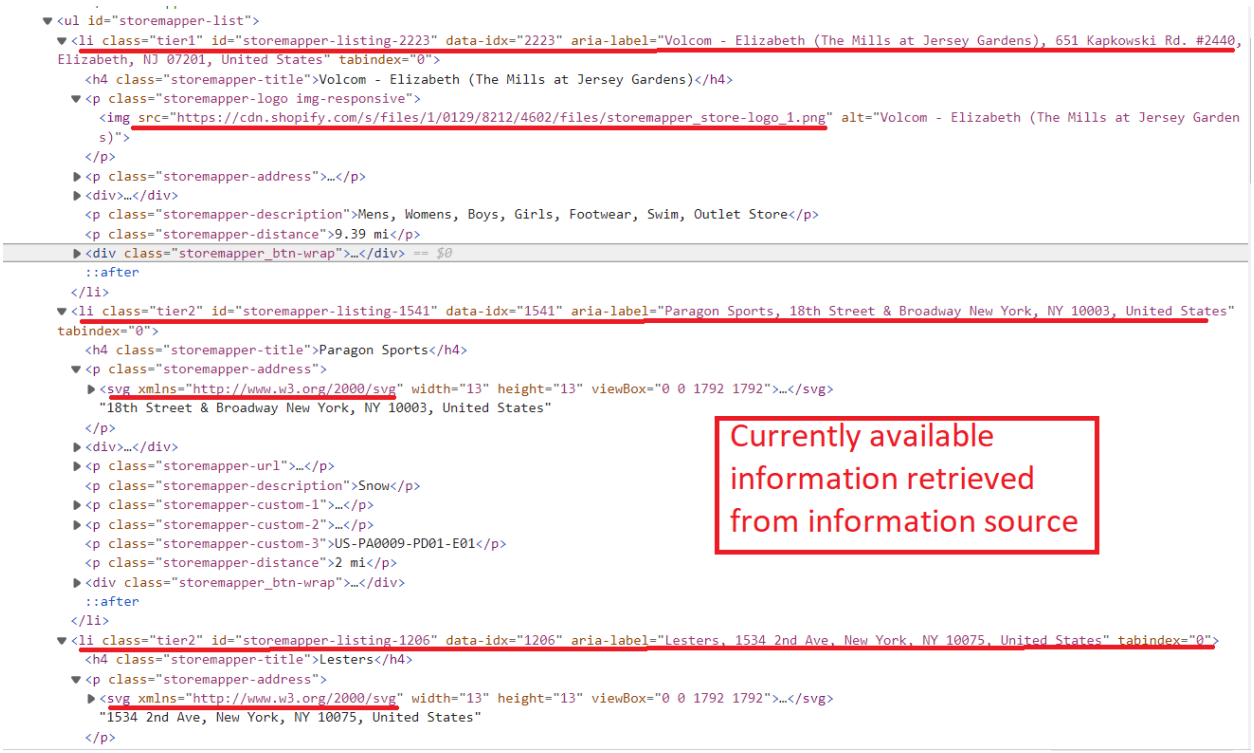
62. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing at least claims 1 and 3 of the '414 patent in Delaware, and elsewhere in the United States, by performing actions comprising using or performing the claimed method using the

https://www.volcom.com/ website ("Accused Instrumentality"). The Accused Instrumentality utilizes a page server (*e.g.*, a volcom.com web server) coupled to a network, which provides a customized page to a user (*e.g.*, a webpage which displays available store meeting a user's search parameters), wherein the customized page is customized according to the user's preferences (*e.g.*, user preferences include preferences tied to a user's account which are pulled upon user login and the search terms inputted by a user such as preferences set by user for store search).

63. On information and belief, the Accused Instrumentality obtains real-time information from information source (*e.g.*, an API is used to gather store information for information source) and stores the real-time information in a shared local storage device (*e.g.*, store information will be gathered from information source using an API and/or scripts, and stored, at least temporarily, on a volcom.com web server and/or user's computer). As shown below, volcom.com uses an API and or scripts to gather store information from information sources in real time.



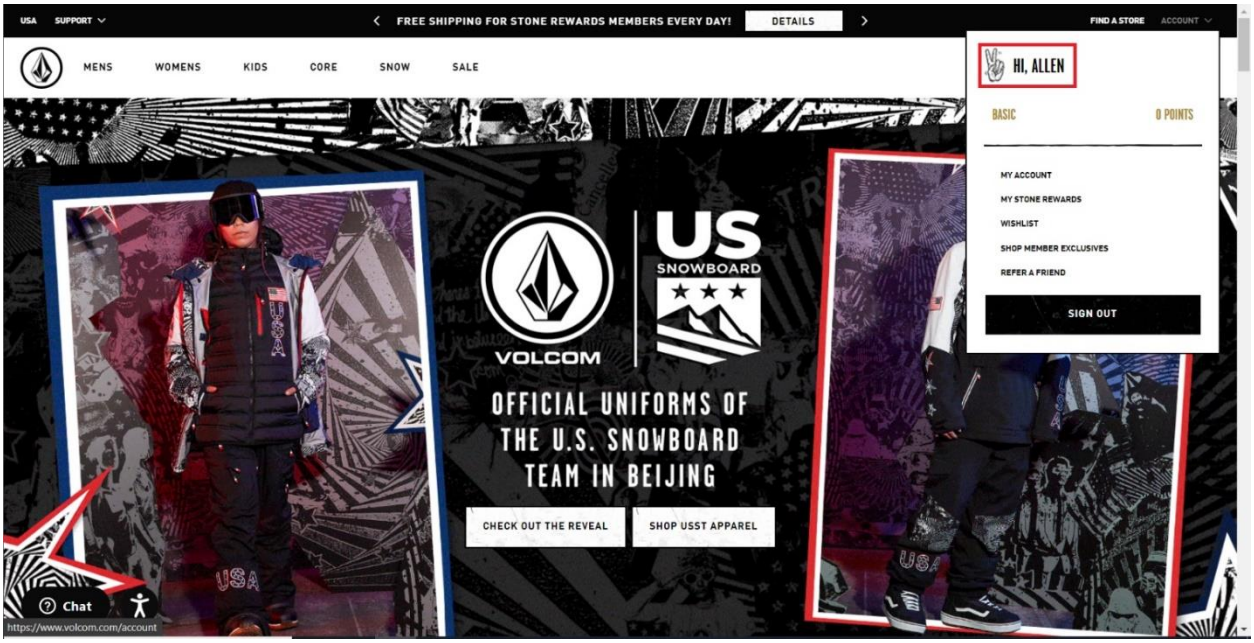
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

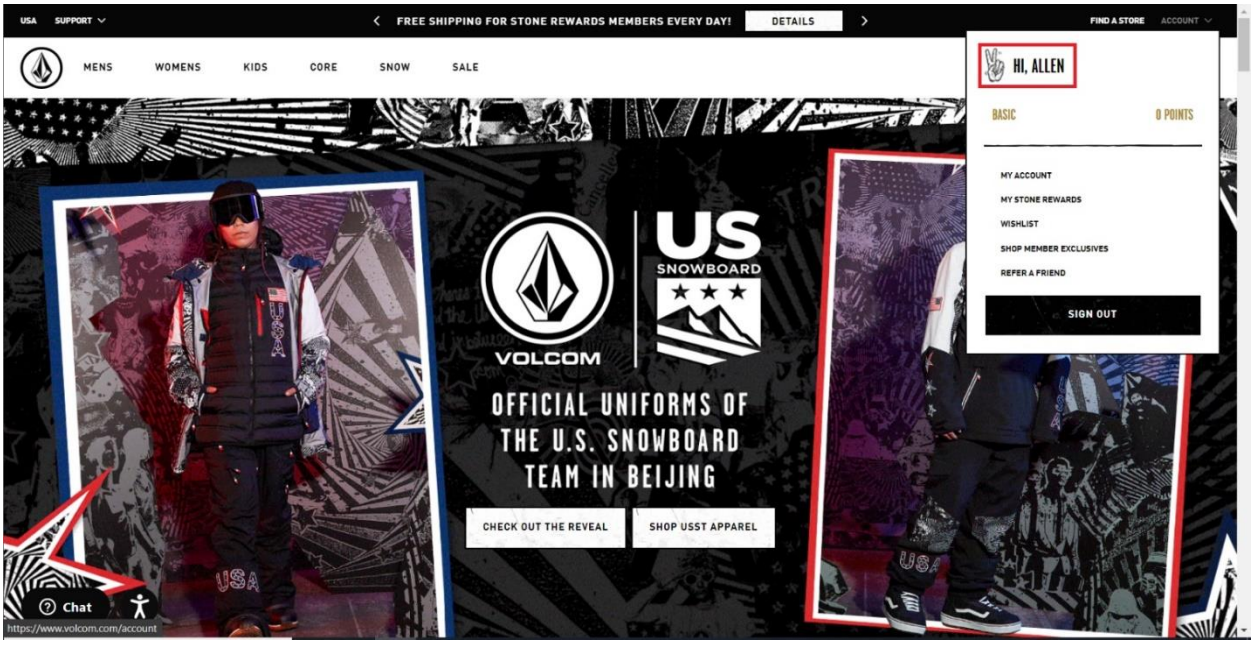
64. The Accused Instrumentality stores a user-specific template program for the user in a data structure associated with a user identifier unique to the user (*e.g.*, a template program will be created for a user's particular search so that said template program can be executed as to display the user's search results as a webpage; said template program is assigned an identifying number so it can be tied to a particular user's search query; said template program will be stored, at least temporarily on a volcom.com server and/or user's computer). The Accused Instrumentality uses the template program that is unique to the user which is generated using customization information unique to the user and a global template that is generic to a plurality of users. As shown below, after a user logs in, volcom.com can display the orders placed by user to the Order History List. As such, a user-specific template program utilized to create the displayed websites that show a

user's name and user's past orders. For showing these, user's shopping information must be stored in a database wherein said template program is tied to a user's log in information/account.



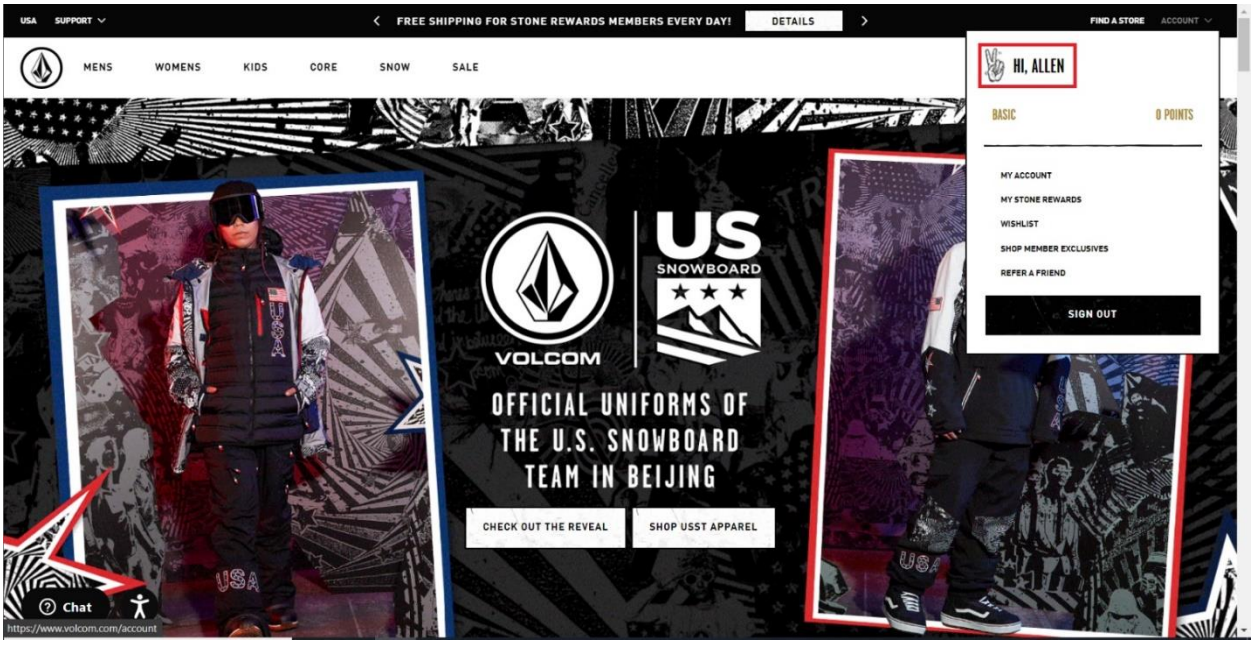
(*E.g.*, https://www.volcom.com/ (for a particular user)).

65. The Accused Instrumentality receives from the user, and at the page server, a user request for a customized page (*e.g.*, the volcom.com server will receive a user's request for store information meeting their inputted parameters) and determines a user identifier associated with the request (*e.g.*, the volcom.com server will assign an identifying number to the user's search). The Accused Instrumentality uses the template program that is unique to the user which is generated using customization information unique to the user and a global template that is generic to a plurality of users. As shown below, after a user logs in, volcom.com can display the orders placed by user to the Order History List. As such, a user-specific template program utilized to create the displayed websites that show a user's name and user's past orders. For showing these, user's shopping information must be stored in a database wherein said template program is tied to a user's log in information/account.



(*E.g.*, https://www.volcom.com/ (for a particular user)).

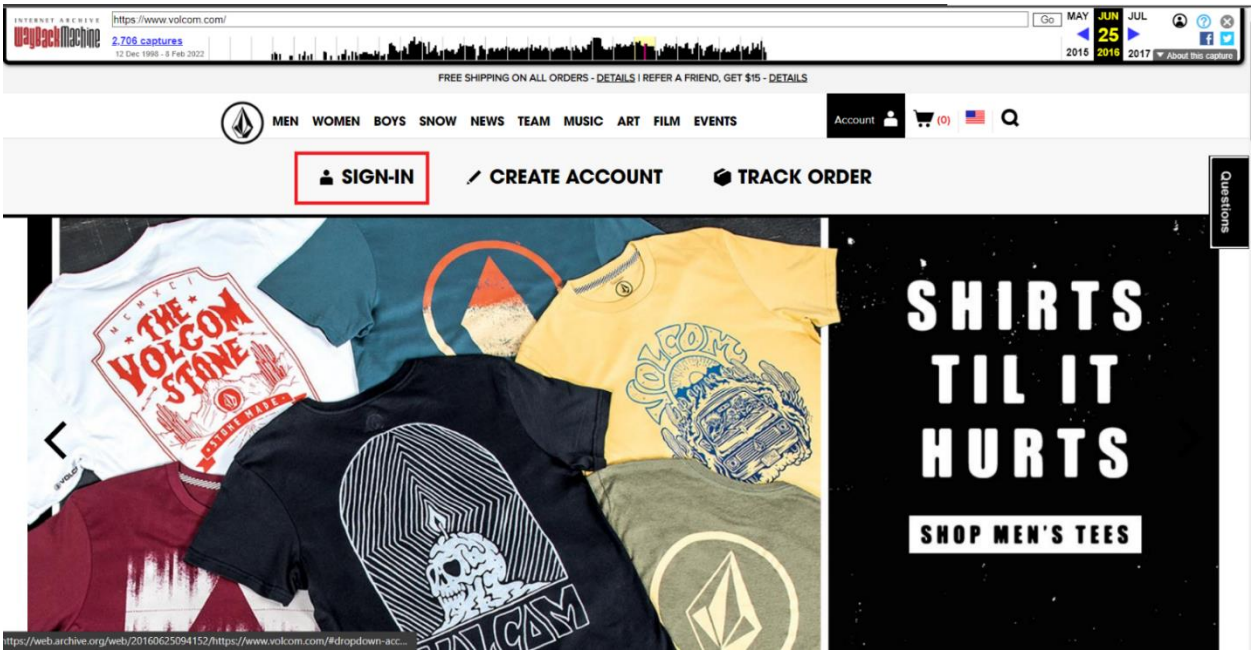
66. Upon information and belief, the Accused Instrumentality receives a template program specific to the user using the determined user identifier associated with the user request (*e.g.*, the volcom.com server will receive a template program, which is the code and data that represents the search results webpage to be delivered to a user, that is identified by a number and linked to a user and their search query). The Accused Instrumentality uses the template program that is unique to the user which is generated using customization information unique to the user and a global template that is generic to a plurality of users. As shown below, after a user logs in, volcom.com can display the orders placed by user to the Order History List. As such, a user-specific template program utilized to create the displayed websites that show a user's name and user's past orders. For showing these, user's shopping information must be stored in a database wherein said template program is tied to a user's log in information/account.



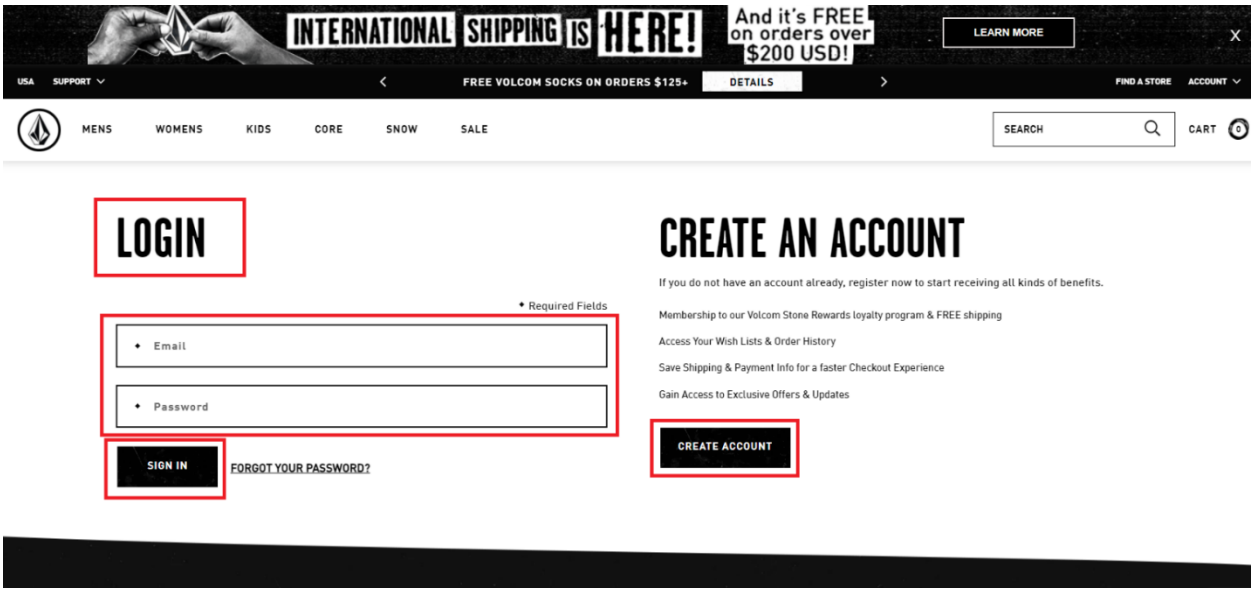
(*E.g.*, https://www.volcom.com/ (for a particular user)).

67. On information and belief, the Accused Instrumentality receives a template program from one of at least two locations, the location determined from the frequency of the user request for the customized page (*e.g.*, the code and objects making up a webpage delivered to the user may be fetched from a main server or from a user's local cache depending on how often the user inputs a similar search query). In at least testing and usage, the Accused Instrumentality practices receiving a template program (*e.g.*, software instructions and data used for rendering a particular user's search results page such as a JavaScript page) that is unique to the user (*e.g.*, JavaScript pages will be specific to a user because the content can be modified by and/or customized for a user (*e.g.*, after a user logs in, pages can display customized information such as a user's name, in addition to booking search results tied to a user's inputted preferences)) and based on user configuration information (*e.g.*, a user can customize the content of their templates and what will be rendered and displayed using said templates by entering information such as their location and by logging in to their account) the user configuration information being supplied by

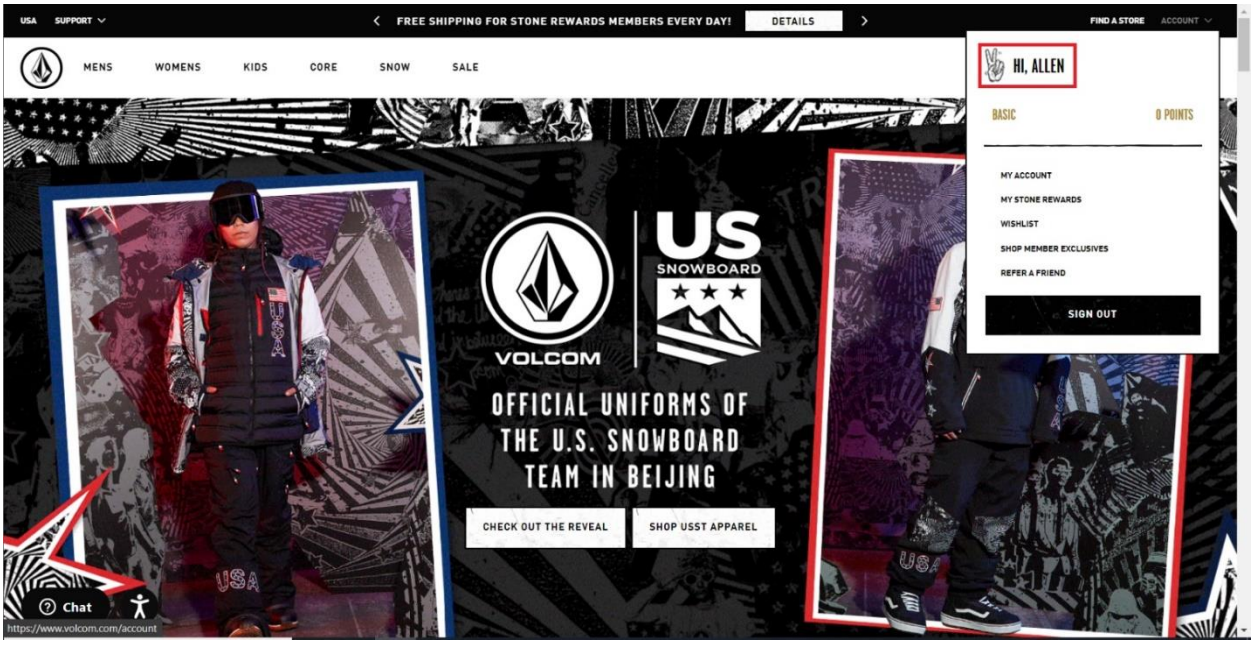
the user (*e.g.*, a user will have supplied their name and any other preferences tied to their account and will have input preferences applicable to store search) and used to build the template program that is unique to the user (*e.g.*, user configuration information is used to modify templates, create instructions, and designate appropriate data retrieval for rendering the user's specific page) and wherein the template program is received from one of at least two locations (*e.g.*, the data and templates comprising a user's page may be retrieved from a main server/disk storage or other sources such as local cache, CDN server, and cookies), the location determined from the frequency of the user request for the customized page (*e.g.*, based on the frequency at which a user logs in or accesses the volcom.com page, the data comprising the user's page may be stored at a main server or at other locations such as local cache, a CDN server, or cookies). Webpage information can be stored in a Javascript object that is used in logic to display various available store, a user's name and other site logic-based conditions. The template information is stored in multiple locations: (1) At runtime, in a Javascript object with the data structure called Context Data; (2) Within browser local storage; and (3) browser cookies.



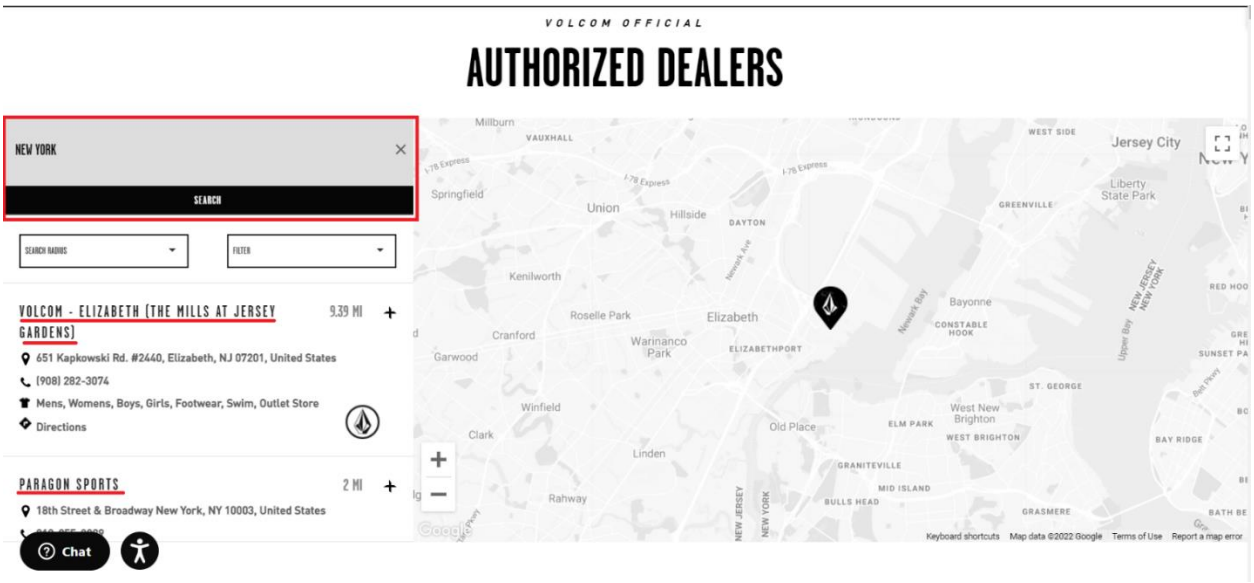
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login (for a particular user)).



(*E.g.*, https://www.volcom.com/account/login (for a particular user)).



(*E.g.*, https://www.volcom.com/ (for a particular user)).



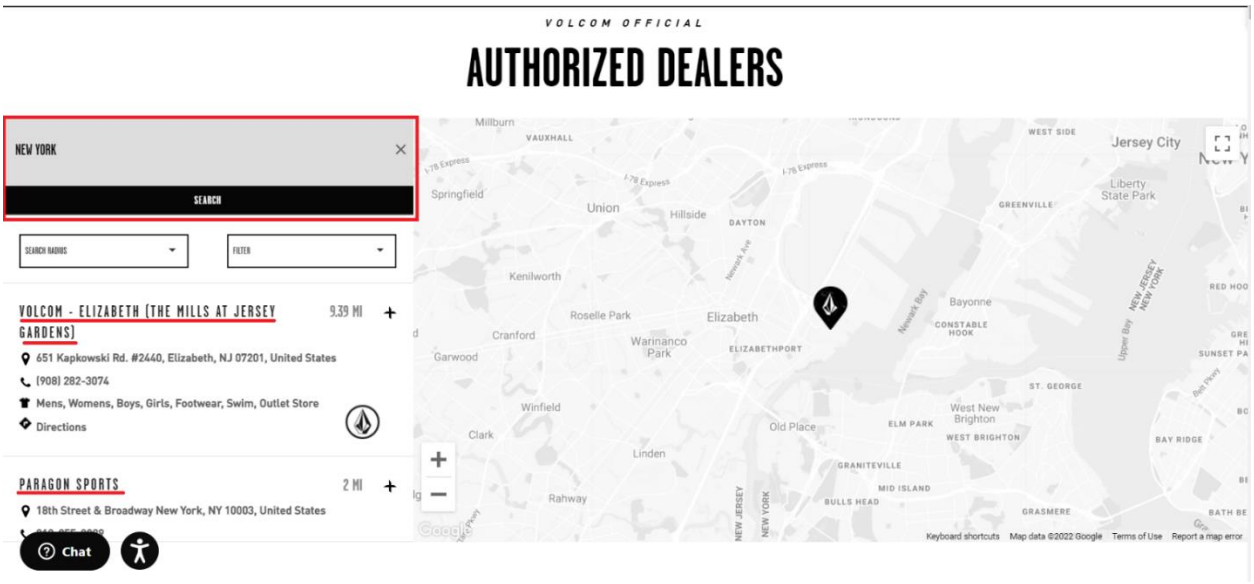
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

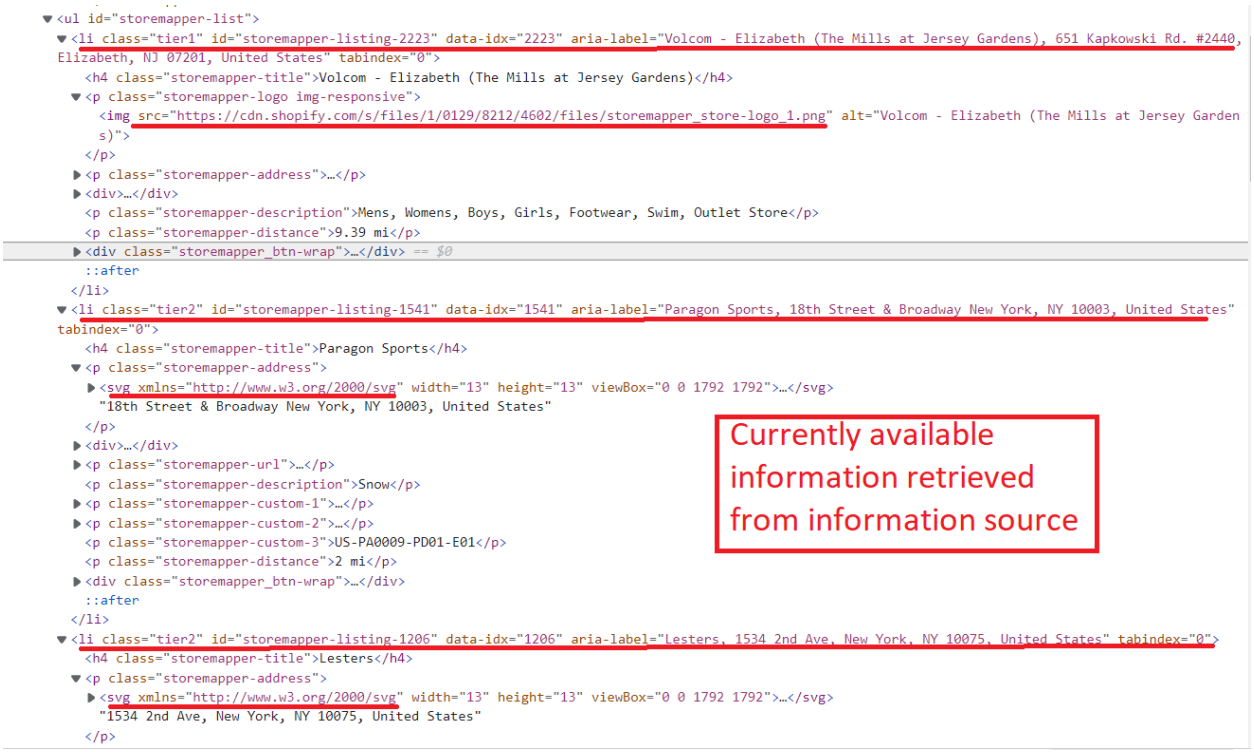
(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js (for a particular user)).

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js (for a particular user)).

68. On information and belief, the Accused Instrumentality executes the template program (*e.g.*, code, objects, APIs, scripts, etc.) specific to the user (*e.g.*, the code and other elements composing the webpage are created for a particular user's search query and which displays user specific content such as the user's name) using real-time information stored in the shared local storage device (*e.g.*, store information pulled from information source and stored at least temporarily on a volcom.com server and/or user's computer) to generate the customized webpage (*e.g.*, store search results webpage created for a particular user's search query and which displays user specific content such as the user's name). As shown below, volcom.com uses an API and or script to gather store information from information source in real time.



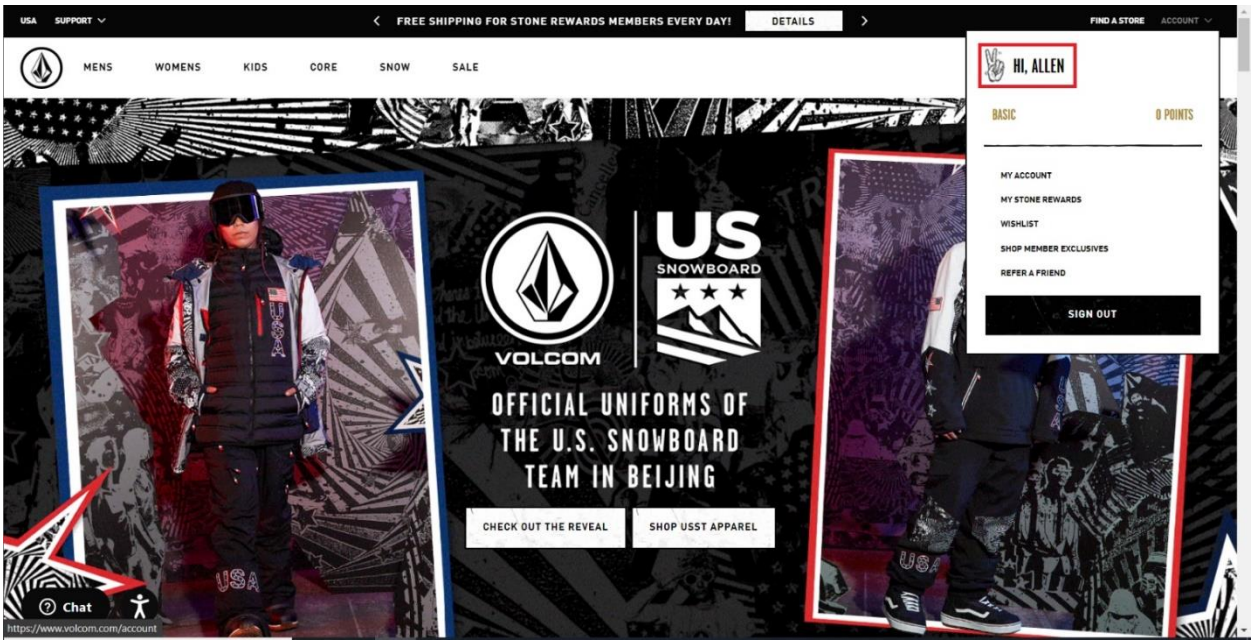
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



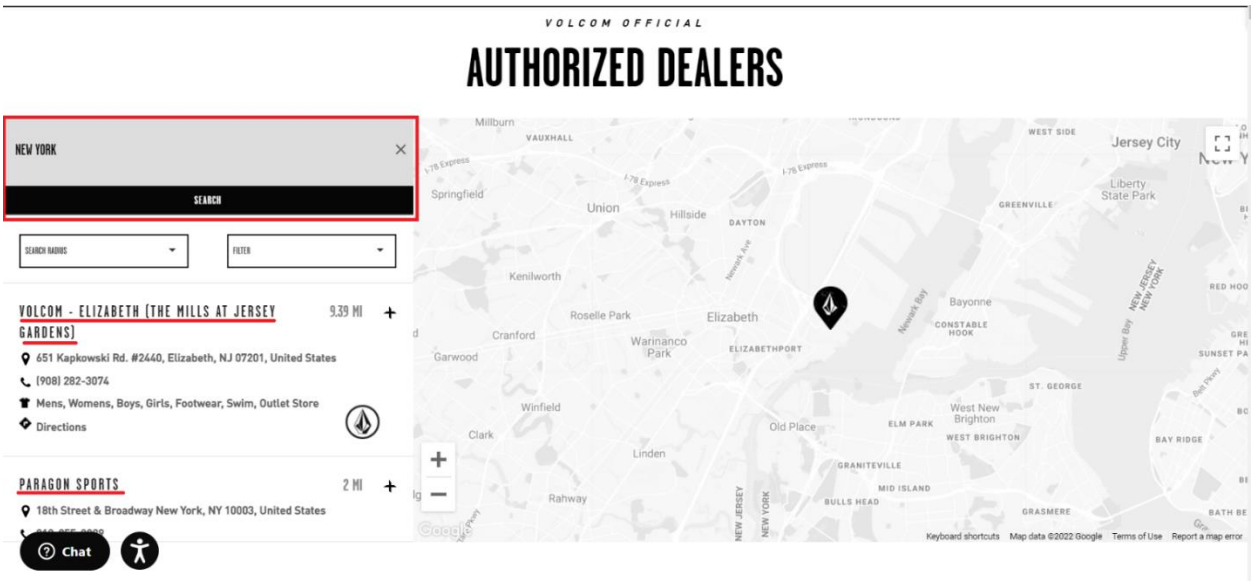
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

69. The Accused Instrumentality utilizes a template program that indicates items of interest to a user; and provides the user a customized page (*e.g.*, the code/scripts/etc. will create a webpage that displays store information related to a user's search query). As shown below,

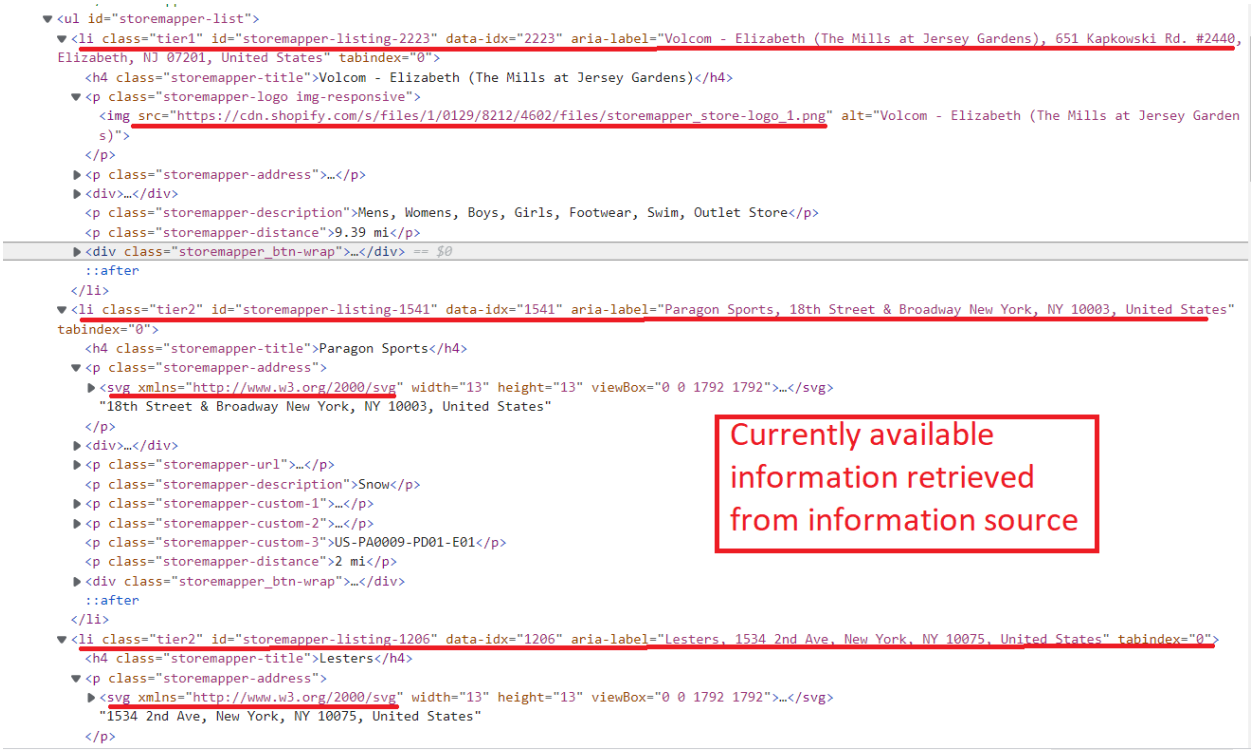
volcom.com uses an API and or script to gather store information from information source in real time.



(*E.g.*, https://www.volcom.com/ (for a particular user)).

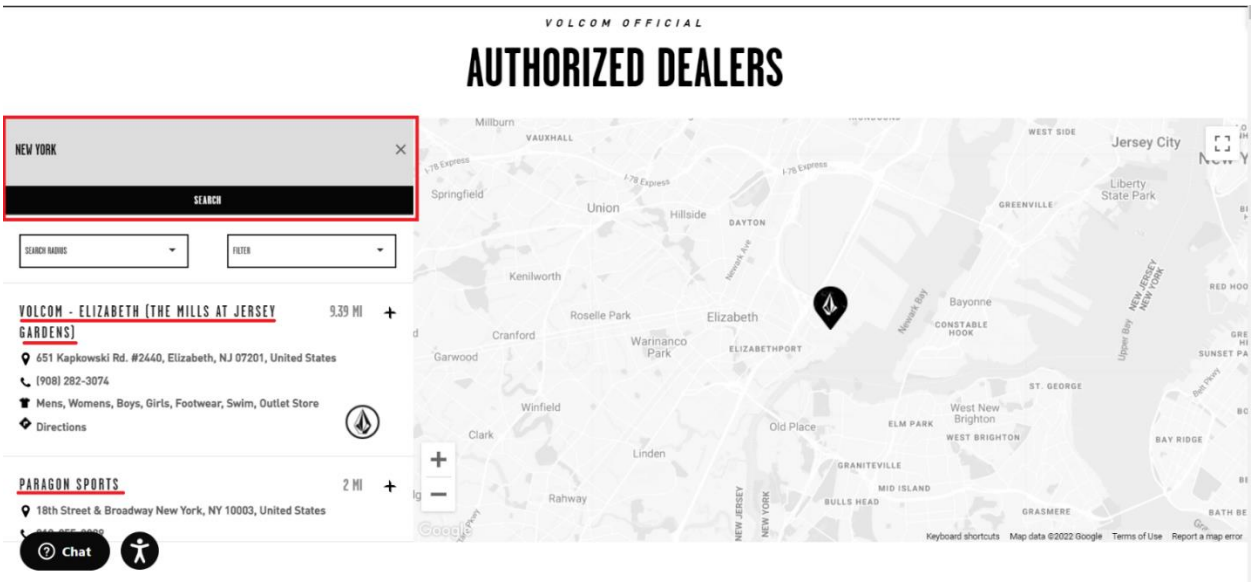


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

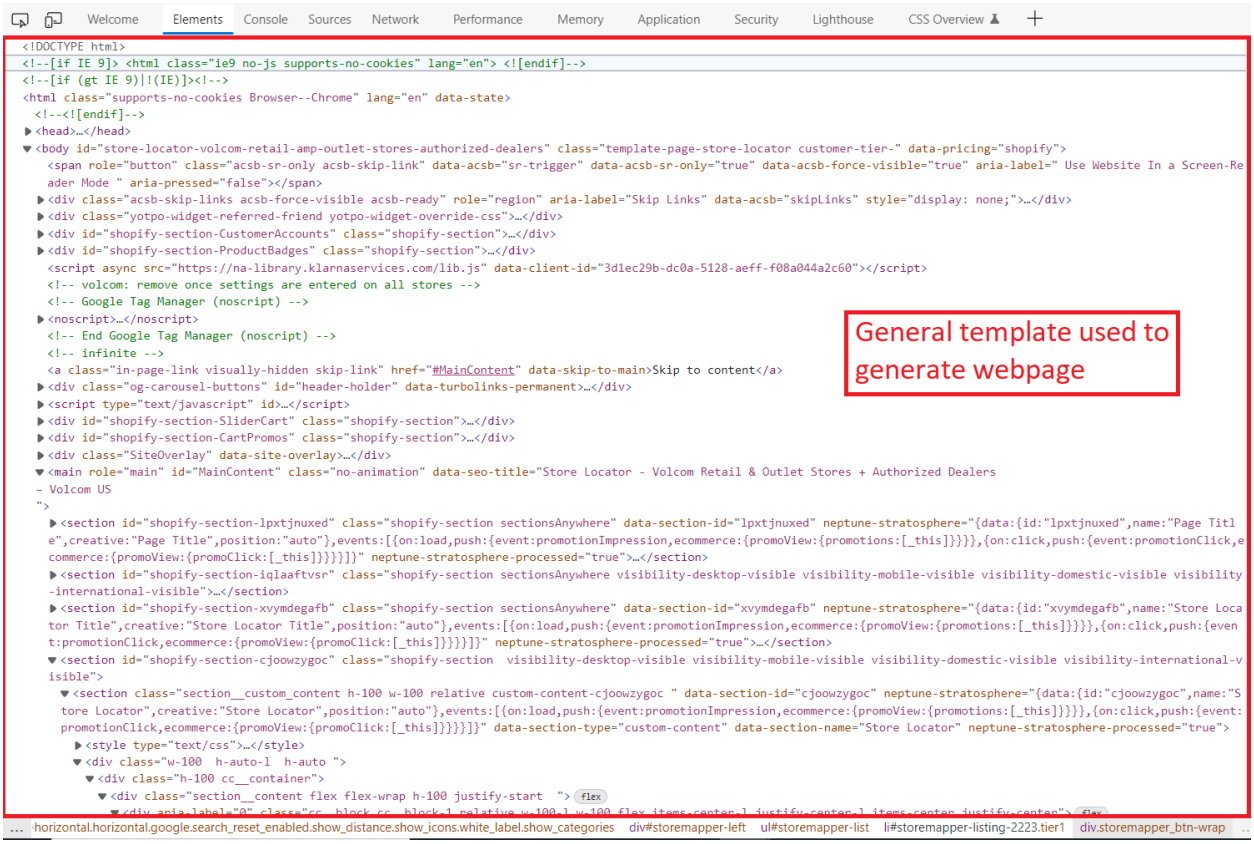


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

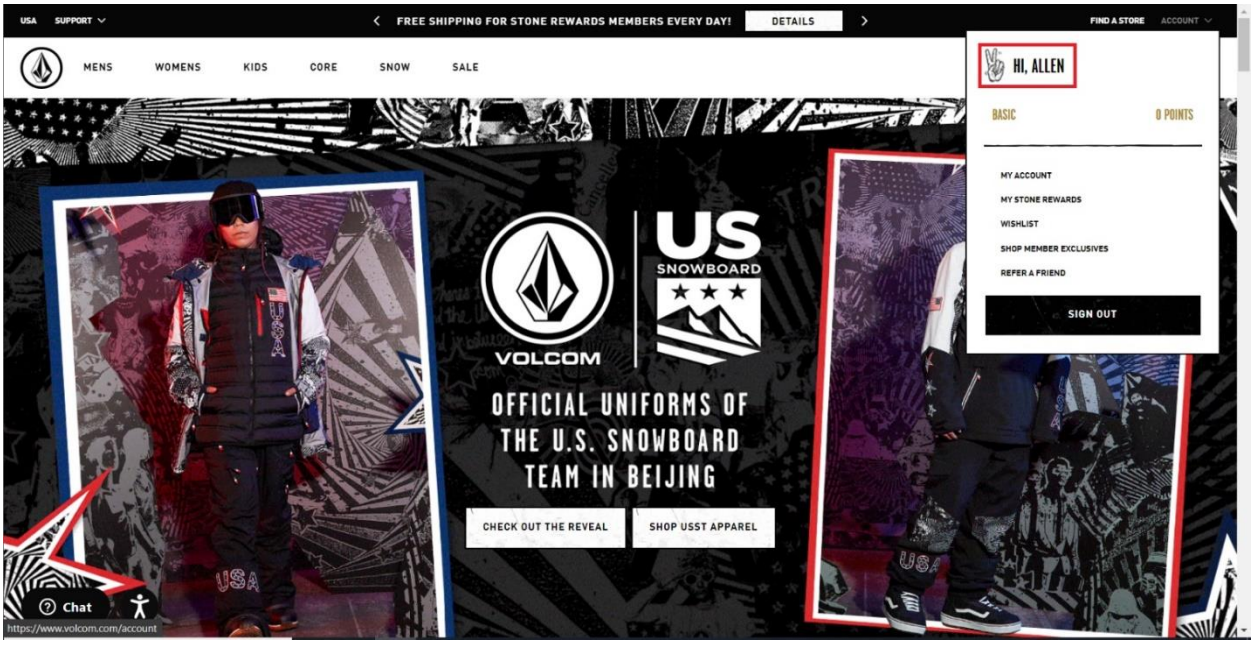
70. On information and belief, the Accused Instrumentality combines the user preferences (*e.g.*, user preferences include preferences tied to a user's account which are pulled upon user login and the search terms inputted by a user such as preferences set by user for store search) for the user and a template (*e.g.*, a generic webpage template) to form a template program specific to a user (*e.g.*, the code for the entire webpage that utilizes a generic template and user's inputted search terms to create a webpage that is customized to display a user's search results). As shown below, volcom.com uses a generic template to define how the webpage should generally be laid out and displayed. Volcom.com will then combine the template with customized data pulled based upon a user's search inputs in order to create a template program executable by a user's browser, so that the customized webpage can be displayed to the user.



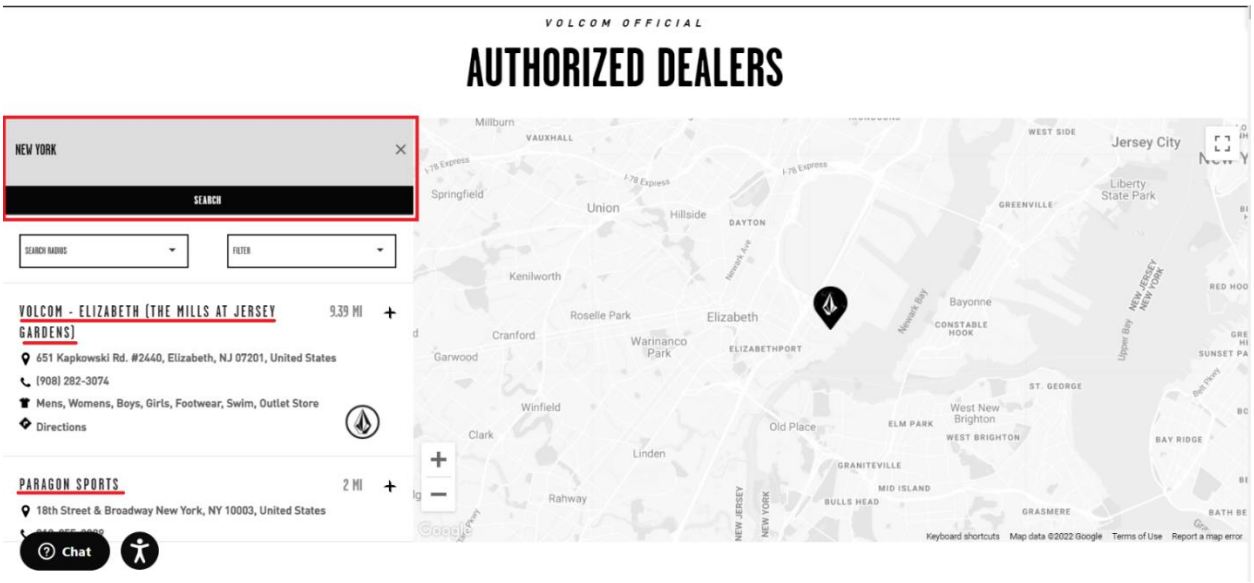
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/ (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

71. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '414 patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

72. On information and belief, Defendant has had at least constructive notice of the '414 patent by operation of law, and there are no marking requirements that have not been complied with.

VI. COUNT IV
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 7,565,359)

73. Plaintiff incorporates the above paragraphs herein by reference.

74. On July 21, 2009, United States Patent No. 7,565,359 ("the '359 Patent") was duly and legally issued by the United Stas Patent and Trademark Office. The '359 Patent is titled "Dynamic Page Generator." A true and correct copy of the '359 Patent is attached hereto as Exhibit K and incorporated herein by reference.

75. Digi Portal is the assignee of all right, title and interest in the '359 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '359 Patent. Accordingly, Digi Portal possesses the exclusive right and standing to prosecute the present action for infringement of the '359 Patent by Defendant.

76. The application leading to the '359 patent was filed January 22, 2007, as a continuation of application no. 09/393,718, which issued as the '414 patent, which was a continuation of application no. 08/873,975, which issued as the '227 patent. (Ex. K at cover). The '359 patent was first assigned to Yahoo! Inc. (*Id.*).

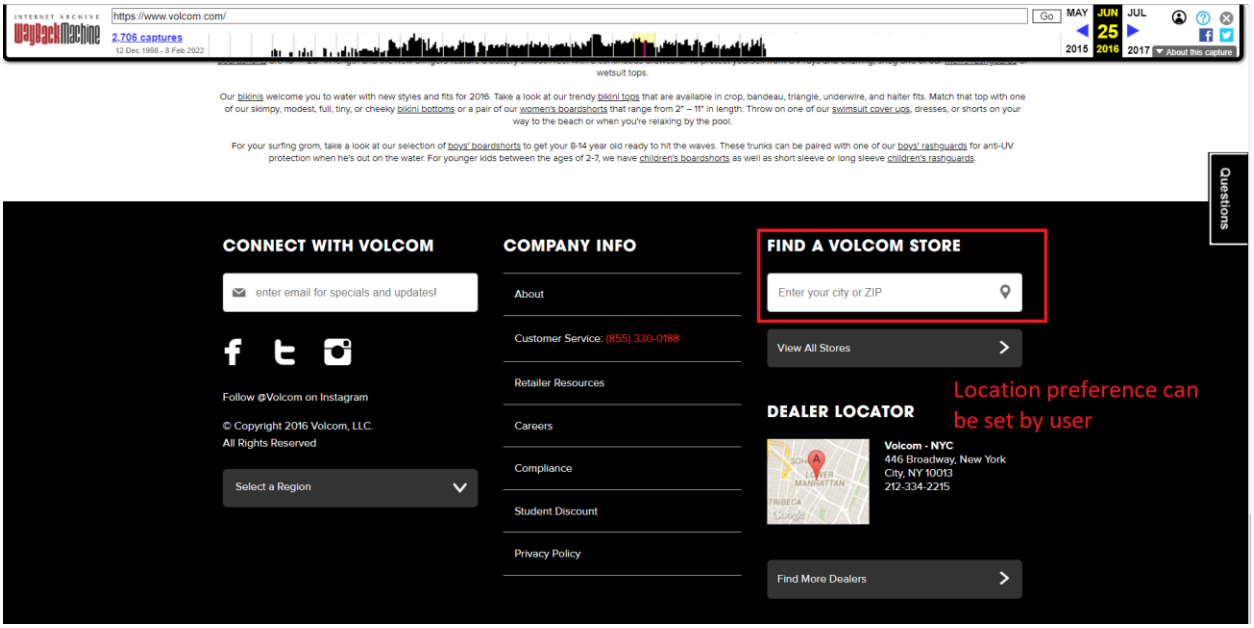
77. The invention in the '359 Patent relates to the field of customized information presentation on the web; more specifically, providing customized pages that are quickly served and scalable to handle many users simultaneously. (*Id.* at col. 1:22-27).

78. The '359 Patent shares the identical specification as the '854 patent and therefore Digi Portal incorporates the background and discussion of the invention in Paragraphs 13-25. Furthermore, the prosecution history of the '359 patent highlights advantages and the unconventional features of the claimed invention. When allowing the claims of the '359 patent, the examiner focused on the last two limitations of the claim stating that executing the template program specific to the user using the real-time information stored in the shared local storage device to generate a customized page; and receiving user preferences for the user, and combining the user preferences with a generic template to form the template specific to the user, wherein the

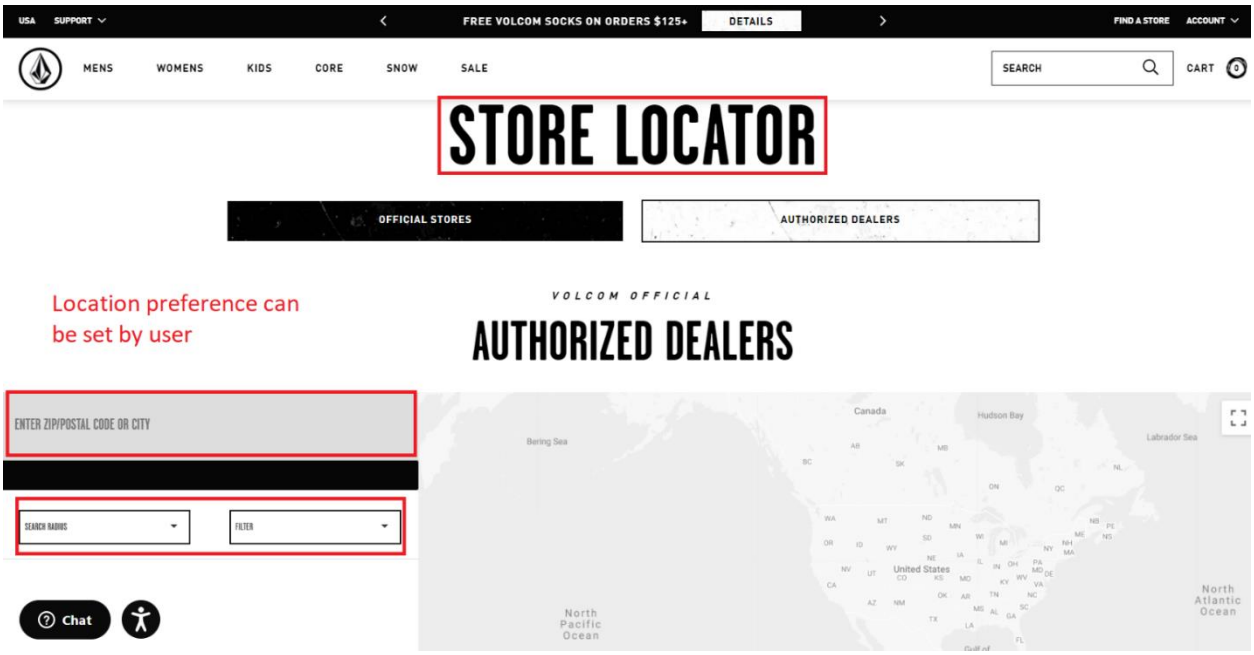
user preferences indicate the items of interest to the user in conjunction with the other limitations was not found in the prior art. (Ex. L at 8).

79. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing at least claim 10 of the '359 patent in Delaware, and elsewhere in the United States, by performing actions comprising making and/or using the claimed computer-readable medium comprising instructions for generating customized pages that are customized according to user preferences that performs the method steps required by the claim, including without limitation through the method implemented of providing a user's https://www.volcom.com/ page ("Accused Instrumentality").

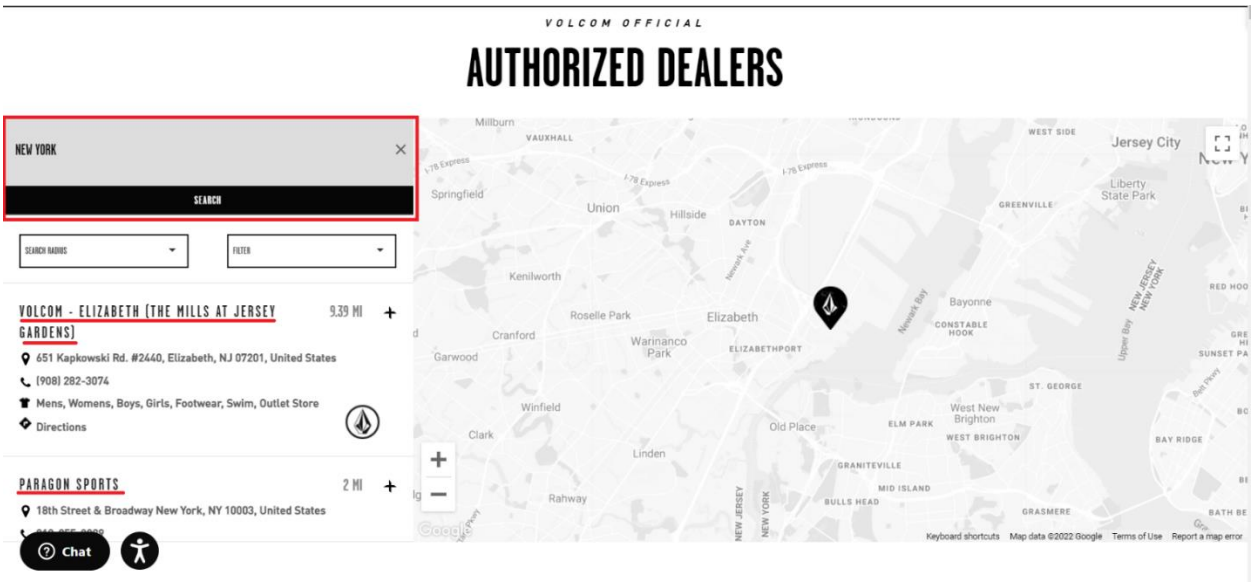
80. The Accused Instrumentality utilizes a computer-readable medium comprising instructions (*e.g.*, code that is executed to create webpages) for generating customized pages (*e.g.*, user-specific search results), wherein the customized pages are customized according to user preferences (*e.g.*, web pages will be customized to show store meeting a user's parameters). As shown below, volcom.com uses a generic template to define how the webpage should generally be laid out and displayed. Volcom.com will then combine the template with customized data pulled based upon a user's search inputs in order to create a template program executable by a user's browser, so that the customized webpage can be displayed to the user.



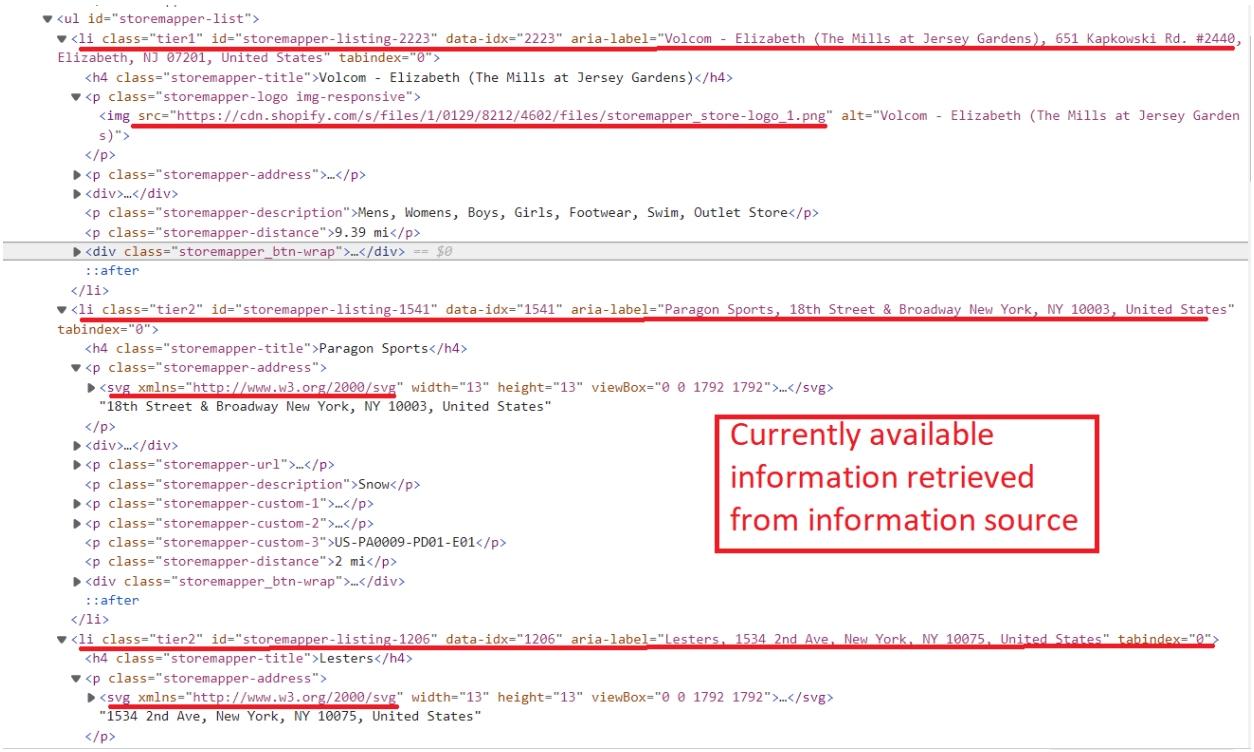
(*E.g.*, https://web.archive.org/web/20160625094152/https://www.volcom.com/ (for a particular user)).



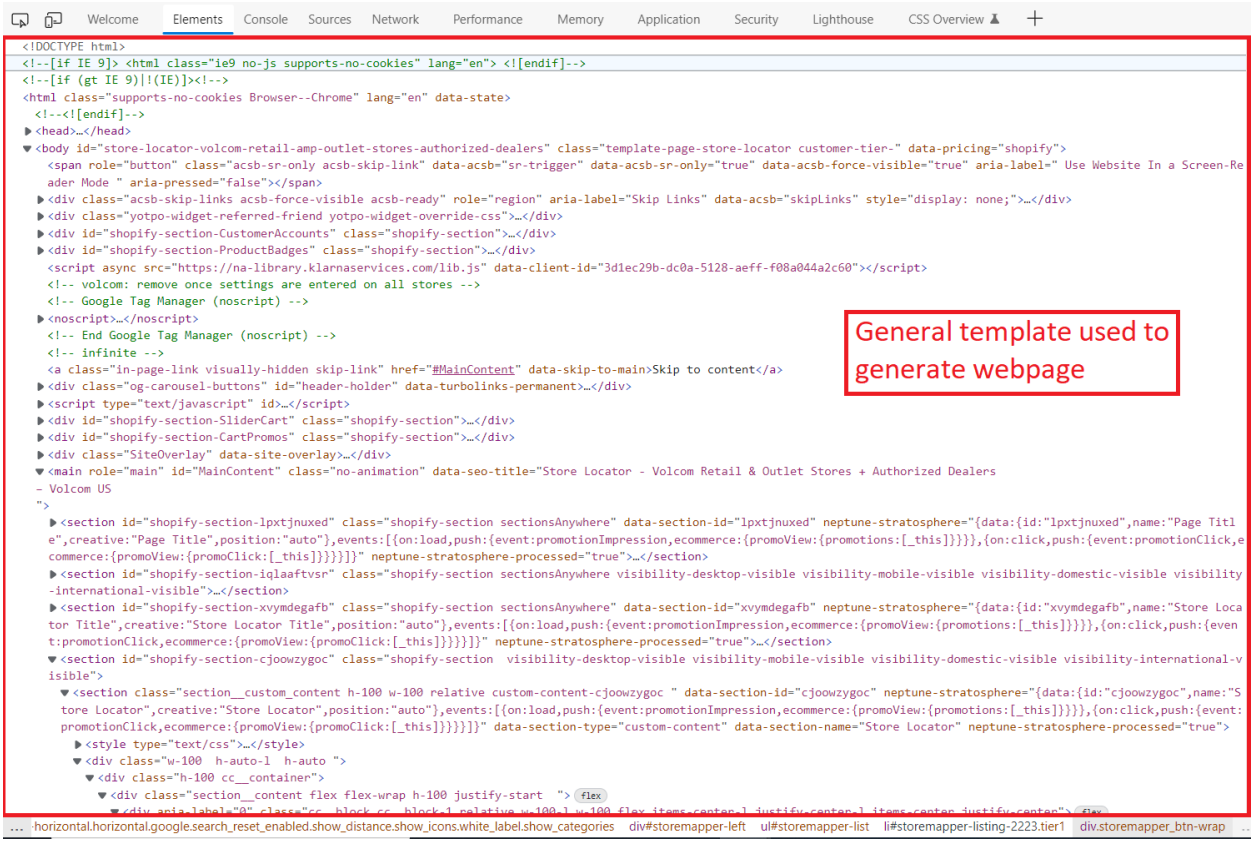
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



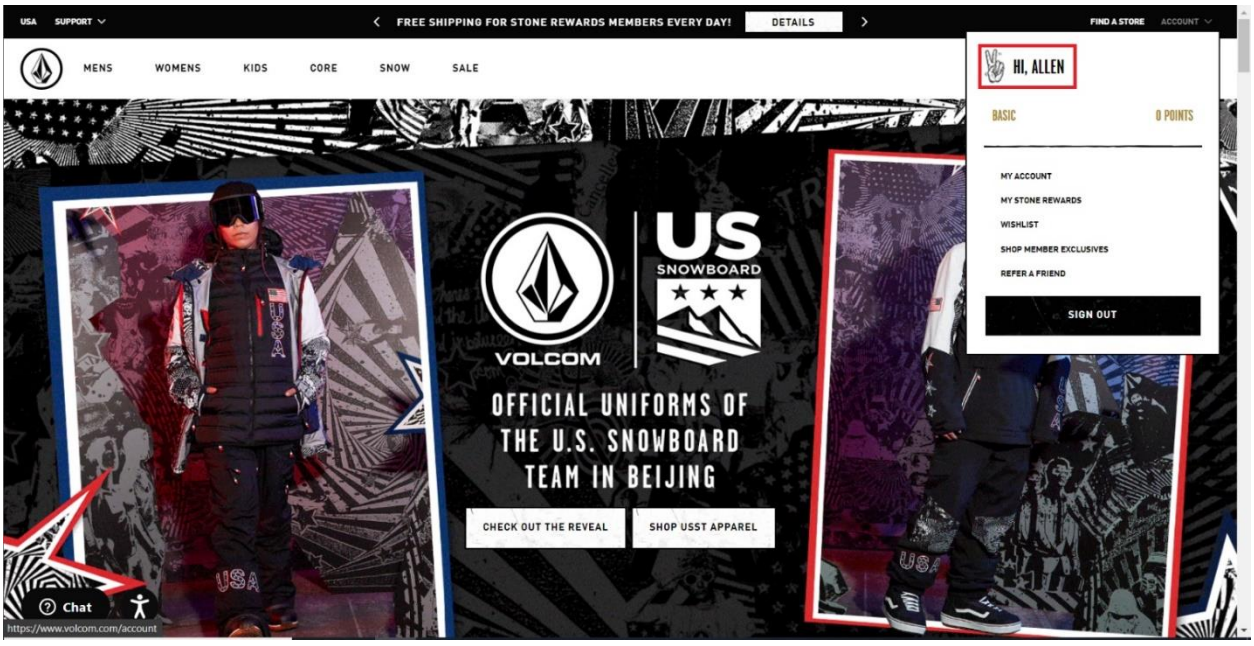
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



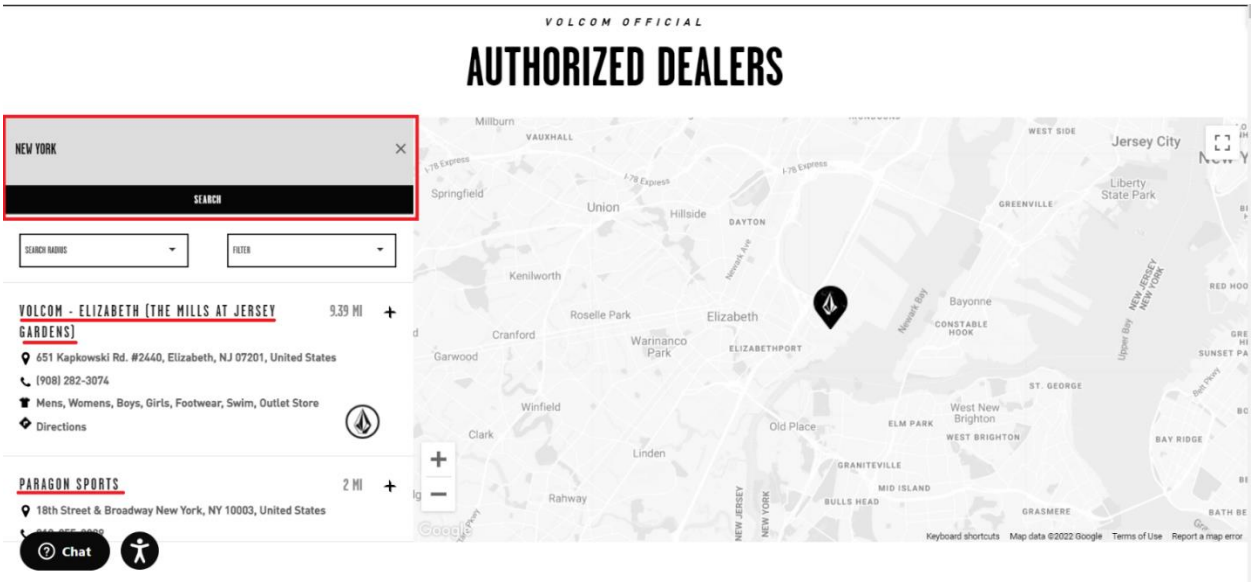
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/ (for a particular user)).

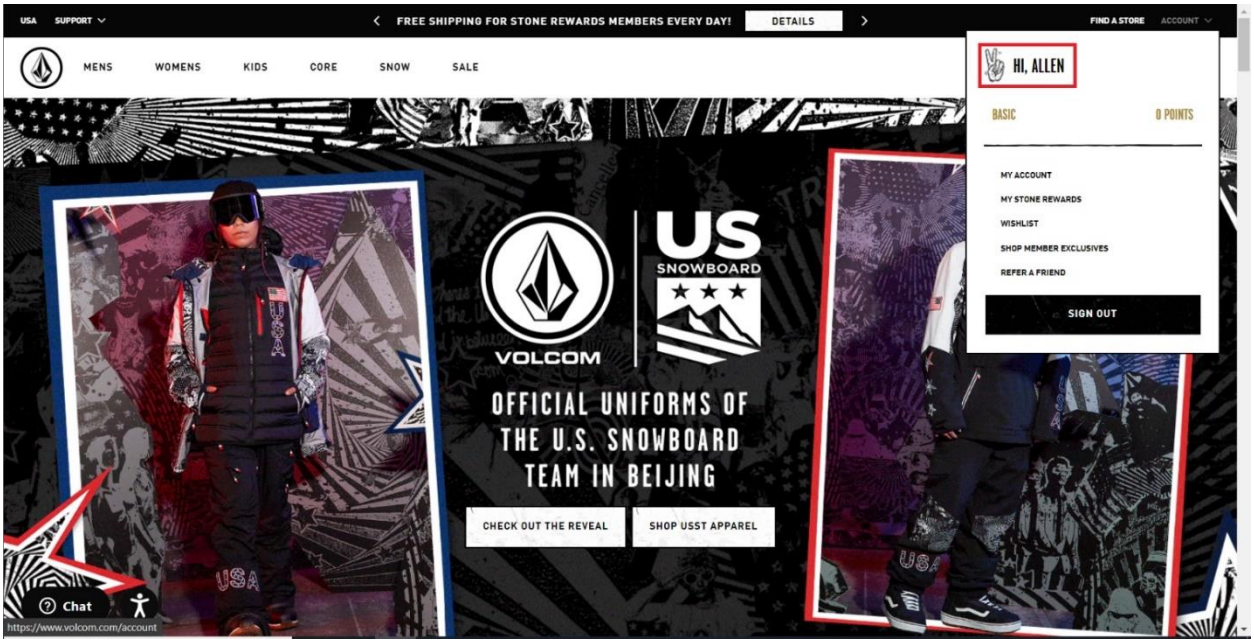


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

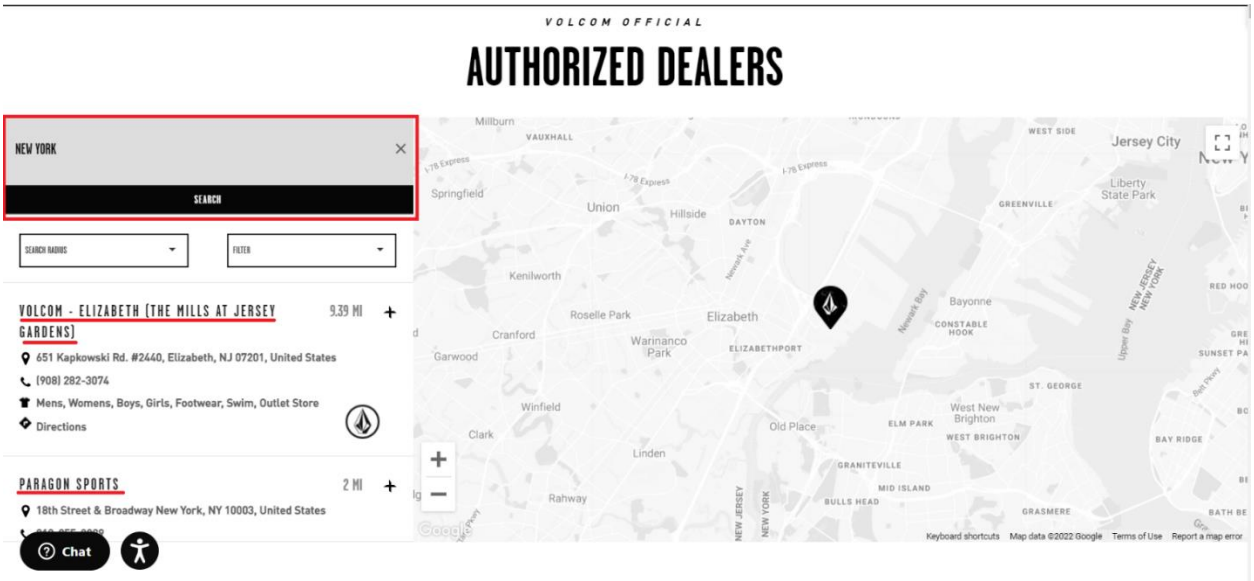
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

81. On information and belief, the Accused Instrumentality practices storing the real-time information in a shared local storage device (*e.g.*, store information will be pulled from a storage server/database and sent to a volcom.com local web/API server for processing and display). The Accused Instrumentality also practices storing a user-specific template program (*e.g.*, instructions and data used to generate a custom user webpage are stored at least temporarily) for a plurality of users, wherein each template program indicates items of interest to a user (*e.g.*, each user's template program will include instructions, code, etc. that dictates the information that should be displayed for a user based on their search query), and is associated with a user identifier (*e.g.*, in order for a user to see information specific to them and their search, volcom.com assigns each user search an identifying number or user id), wherein the user identifier is associated with a user request (*e.g.*, a user search will be linked to an identifying number or user id) for a customized page. As shown below, volcom.com uses an API and or script to gather store information from information source in real time. The Accused Instrumentality stores a user-specific template program for the user in a data structure associated with a user identifier unique to the user (*e.g.*, a template program will be created for a user's particular search so that said template program can be executed as to display the user's search results as a webpage; said template program is assigned an identifying number so it can be tied to a particular user's search query; said template program will be stored, at least temporarily on a volcom.com server). Further, the Accused Instrumentality uses the template program that is unique to the user which is generated using customization information unique to the user and a global template that is generic to a plurality of users. After a user logs in, volcom.com can display the orders placed by user to the Order History List. As such, a user-specific template program utilized to create the displayed websites that show a user's name

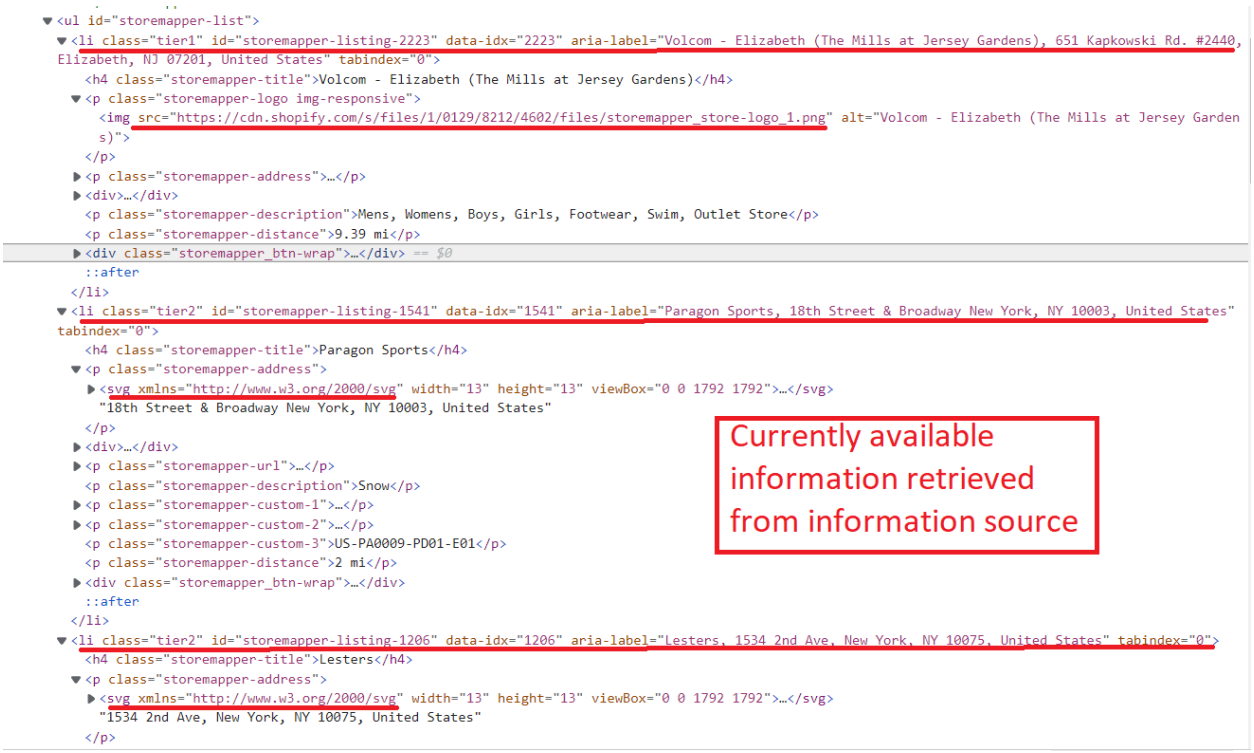
and user's past orders. For showing these, user's shopping information must be stored in a database wherein said template program is tied to a user's log in information/account.



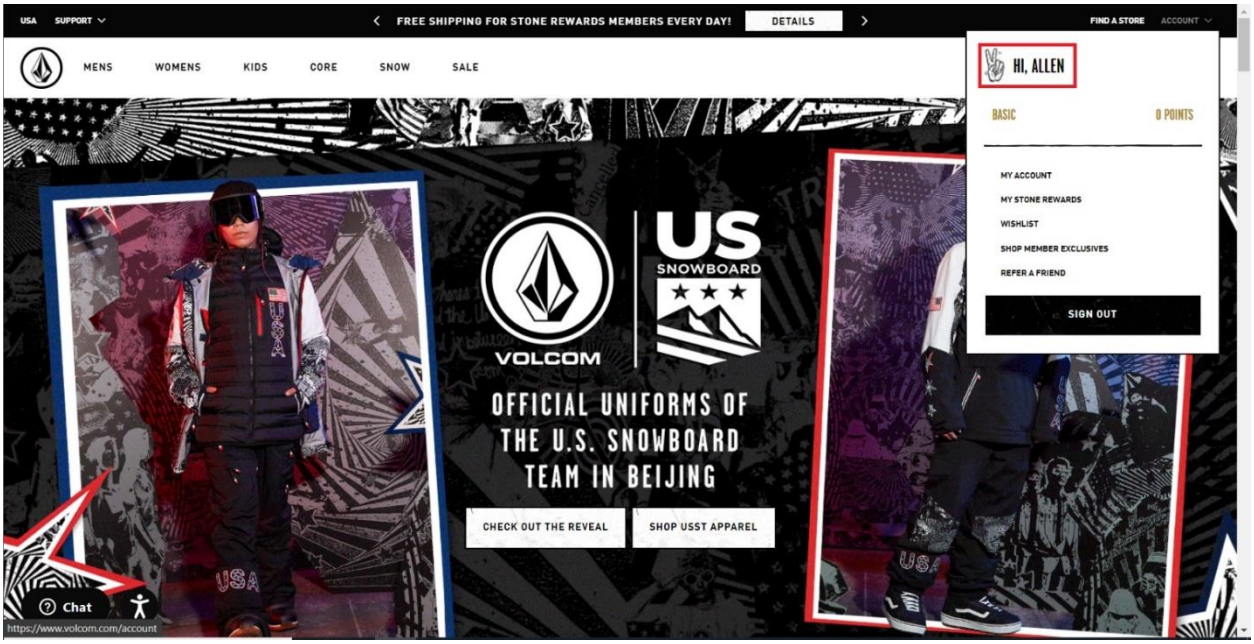
(*E.g.*, https://www.volcom.com/ (for a particular user)).



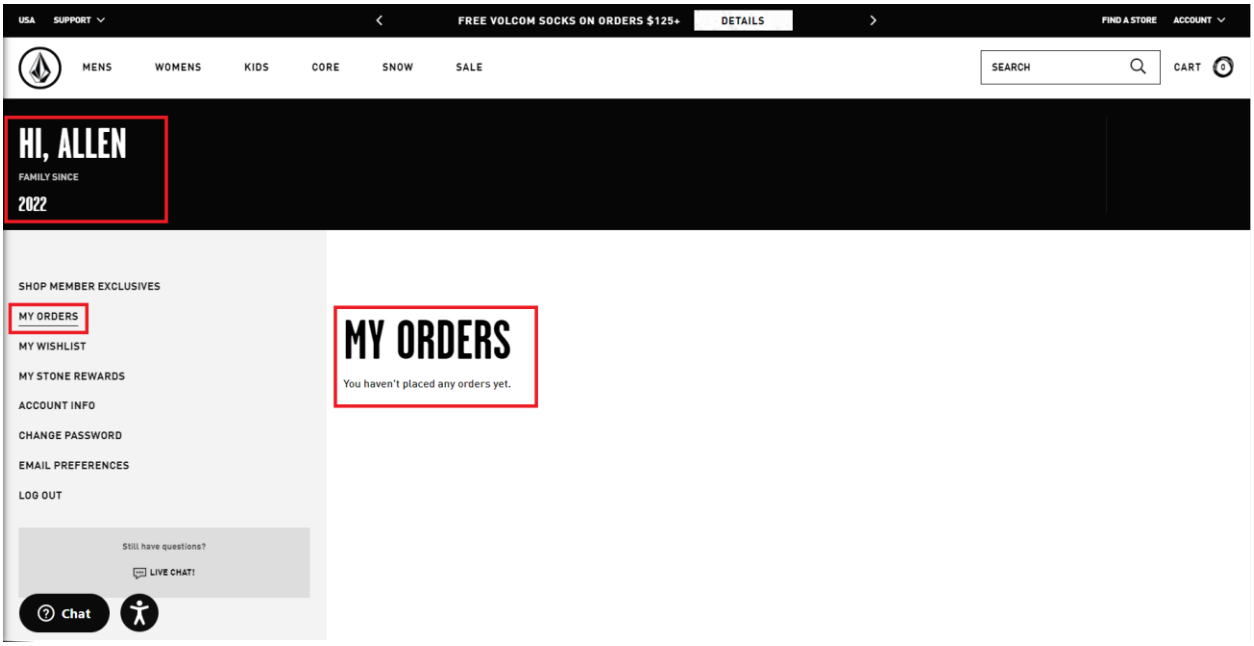
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



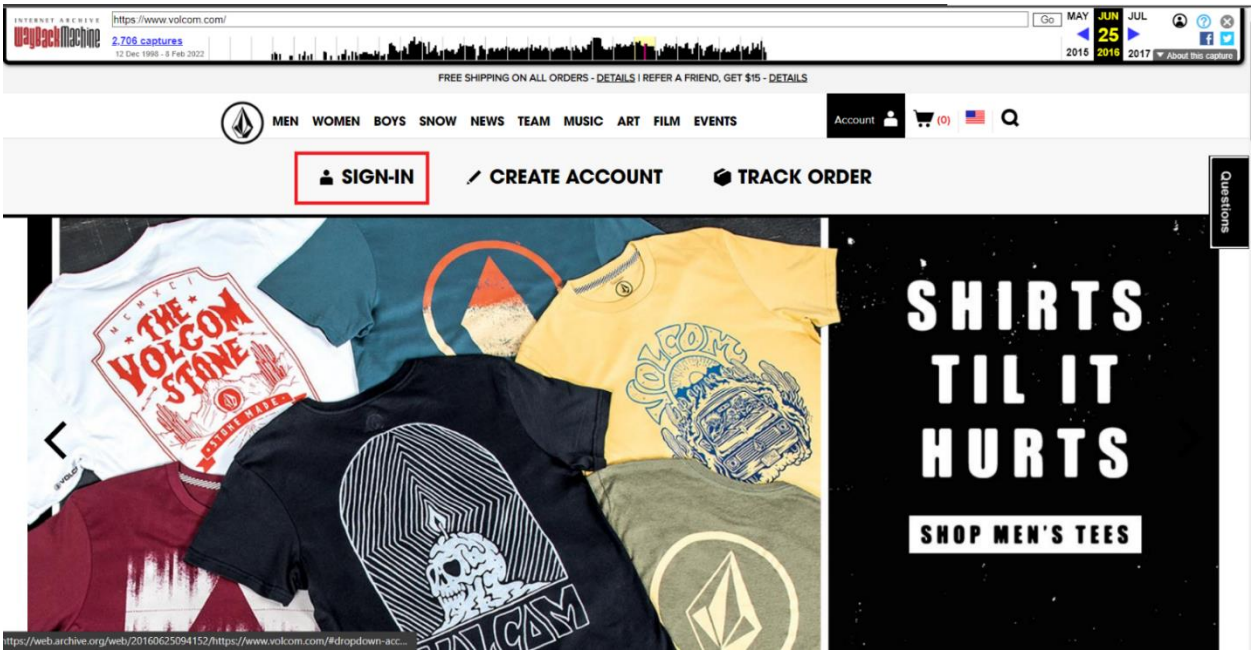
(*E.g.*, https://www.volcom.com/ (for a particular user)).



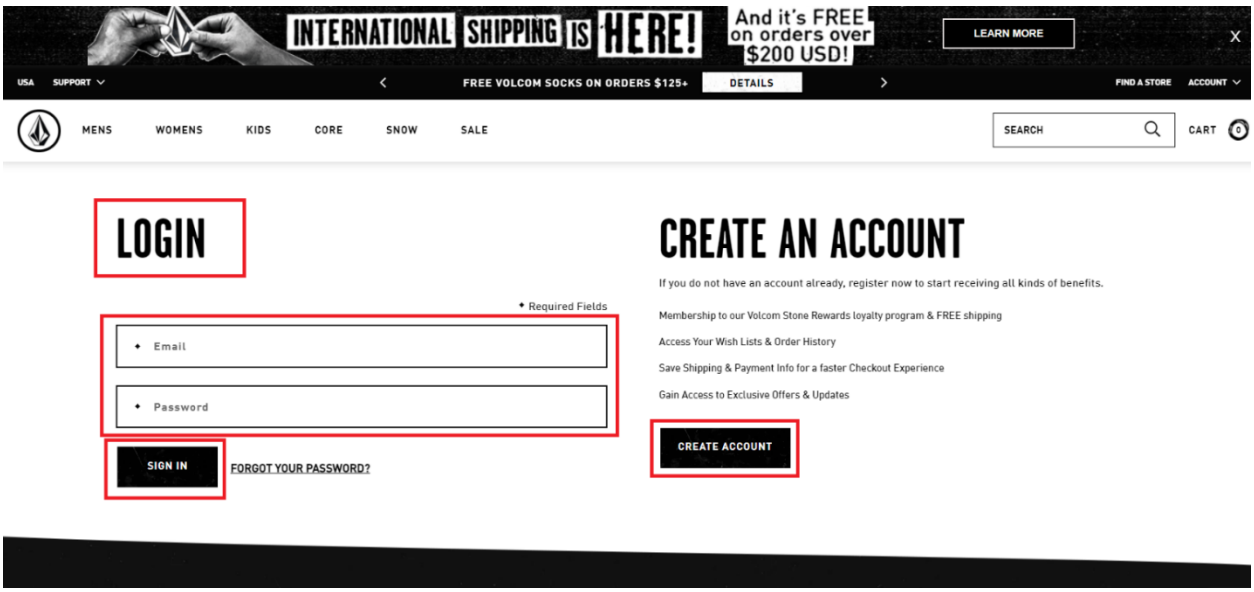
(*E.g.*, https://www.volcom.com/account (for a particular user)).

82. On information and belief, the Accused Instrumentality, practices receiving a template program (*e.g.*, code, instructions, etc. that are executed to create a user page) specific to the user using the user identifier (*e.g.*, as explained above, in order to display pages customized for a user, each search is assigned an identifying number), wherein the template program is received from one of at least two locations (*e.g.*, main storage at a volcom.com server or local device storage), the location based upon a frequency of user requests for the customized page (*e.g.*, certain components of the webpage may be retrieved from local cache, CDN servers, or cookies, as opposed to a main server, if said components were kept in cache due to a user's frequent request for the same or similar page). In at least testing and usage, the Accused Instrumentality practices receiving a template program (*e.g.*, software instructions and data used for rendering a particular user's search results page such as a JavaScript page) that is unique to the user (*e.g.*, JavaScript pages will be specific to a user because the content can be modified by and/or customized for a user (*e.g.*, after a user logs in, pages can display customized information such as a user's name, in

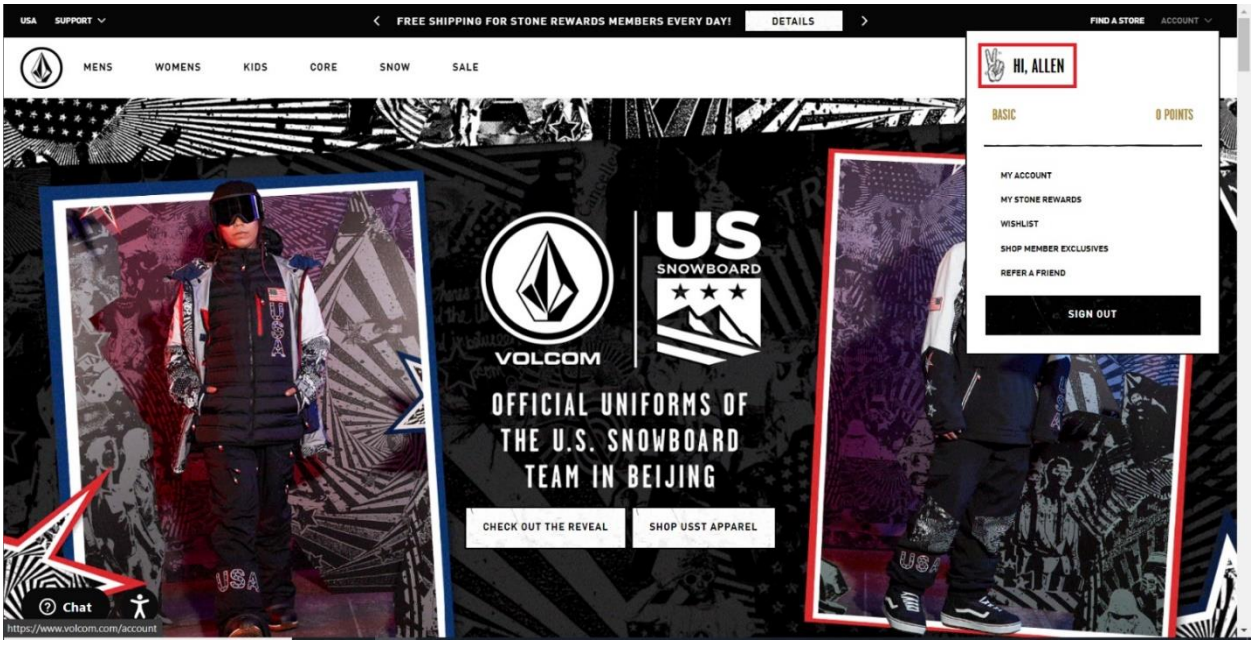
addition to booking search results tied to a user's inputted preferences)) and based on user configuration information (*e.g.,* a user can customize the content of their templates and what will be rendered and displayed using said templates by entering information such as their location and by logging in to their account) the user configuration information being supplied by the user (*e.g.,* a user will have supplied their name and any other preferences tied to their account and will have input preferences applicable to a store search) and used to build the template program that is unique to the user (*e.g.,* user configuration information is used to modify templates, create instructions, and designate appropriate data retrieval for rendering the user's specific page) and wherein the template program is received from one of at least two locations (*e.g.,* the data and templates comprising a user's page may be retrieved from a main server/disk storage or other sources such as local cache, CDN server, and cookies), the location determined from the frequency of the user request for the customized page (*e.g.,* based on the frequency at which a user logs in or accesses the volcom.com page, the data comprising the users page may be stored at a main server or at other locations such as local cache, a CDN server, or cookies). Webpage information can be stored in a Javascript object that is used in logic to display various available store, a user's name and other site logic-based conditions. The template information is stored in multiple locations: (1) At runtime, in a Javascript object with the data structure called Context Data; (2) Within browser local storage; and (3) browser cookies.



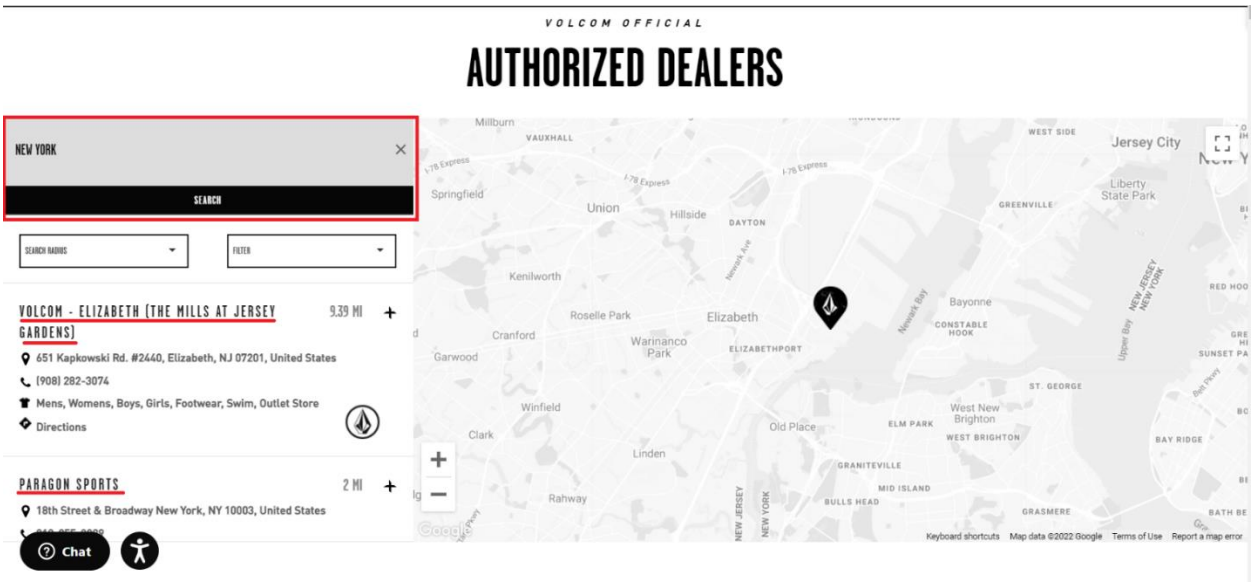
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/account/login (for a particular user)).



(*E.g.*, https://www.volcom.com/ (for a particular user)).

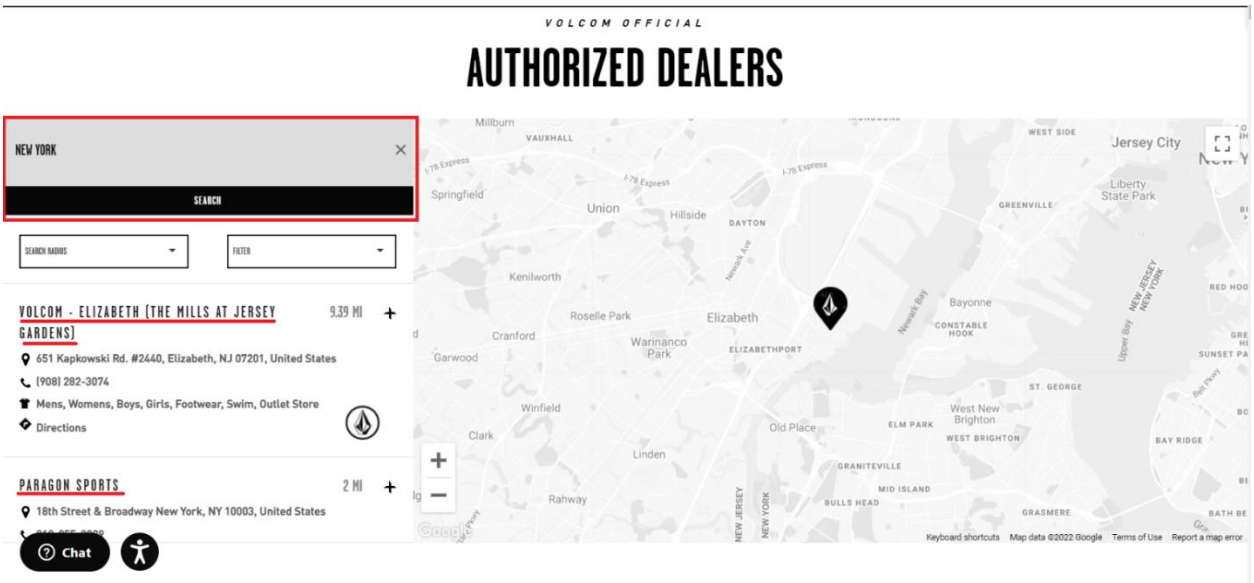


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

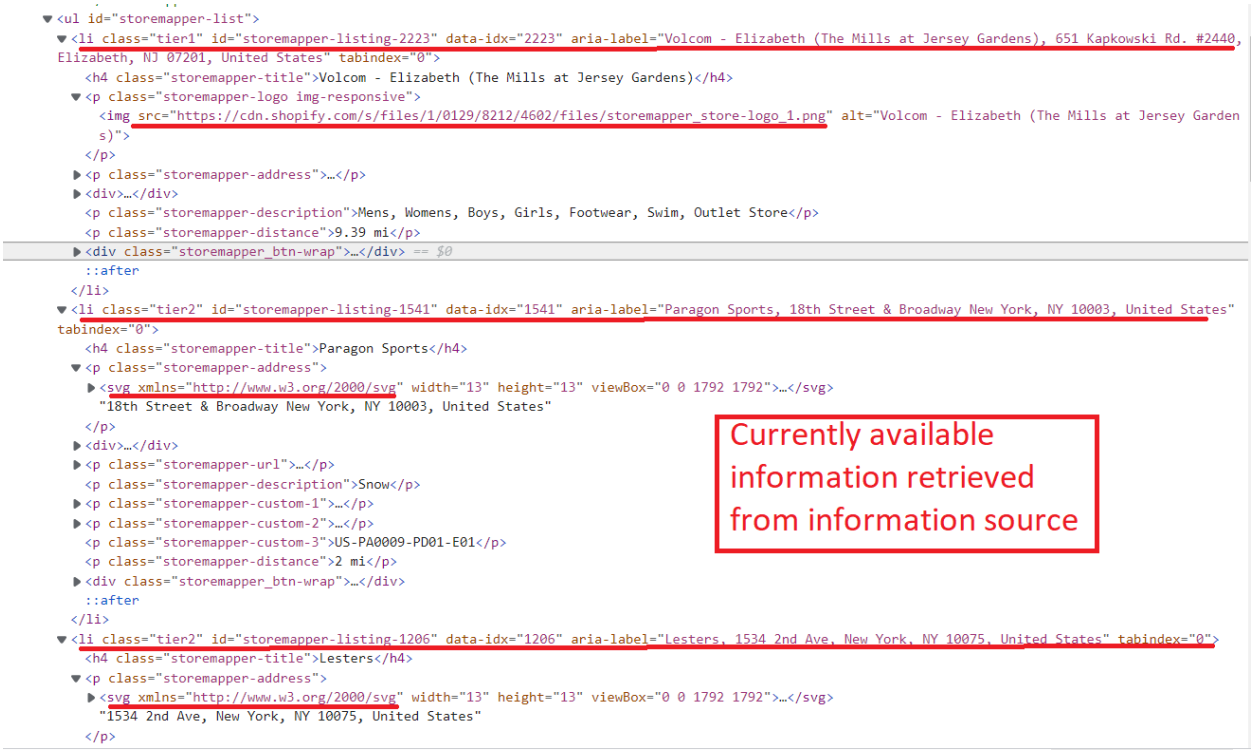
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js (for a particular user)).

83. On information and belief, the Accused Instrumentality executes the template program (*e.g.*, code, objects, APIs, scripts, etc.) specific to the user (*e.g.*, the code and other elements composing the webpage are created for a particular user's search query) using real-time information stored in the shared local storage device (*e.g.*, store information pulled from information source and stored at least temporarily on a volcom.com server and/or user's computer) to generate the customized webpage (*e.g.*, store search results). As shown below, volcom.com uses an API and or script to gather store information from information source in real time.

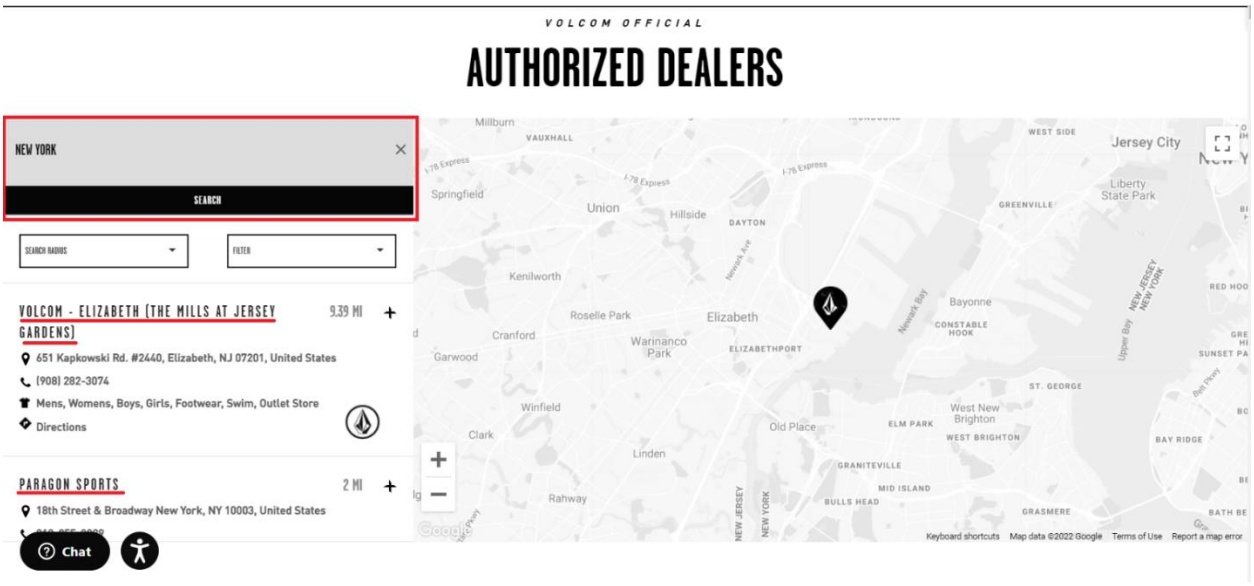


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

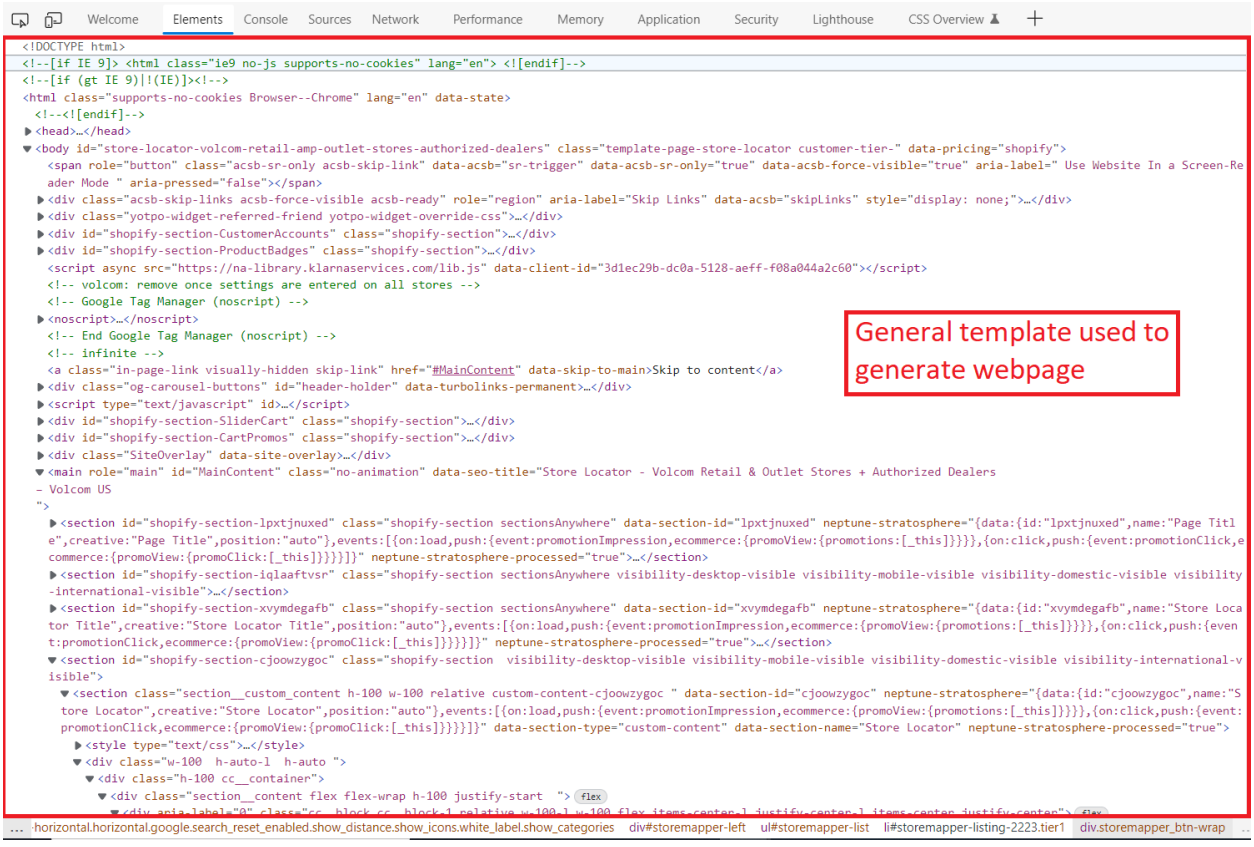


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

84. On information and belief, the Accused Instrumentality combines the user preferences (*e.g.*, user preferences include preferences tied to a user's account which are pulled upon user login and the search terms inputted by a user such as preferences set by user for store search) for the user and a template (*e.g.*, a generic webpage template) to form a template program specific to a user (*e.g.*, the code for the entire webpage that utilizes a generic template and user's inputted search terms to create a webpage that is customized to display a user's search results). As shown below, volcom.com uses a generic template to define how the webpage should generally be laid out and displayed. Volcom.com will then combine the template with customized data pulled based upon a user's search inputs in order to create a template program executable by a user's browser, so that the customized webpage can be displayed to the user.



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator).

(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

85. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '359 patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

86. On information and belief, Defendant has had at least constructive notice of the '359 patent by operation of law, and there are no marking requirements that have not been complied with.

VII. COUNT V
(PATENT INFRINGEMENT OF UNITED STATES PATENT NO. 9,626,342)

87. Plaintiff incorporates the above paragraphs herein by reference.

88. On April 18, 2017, United States Patent No. 9,626,342 ("the '342 Patent") was duly and legally issued by the United States Patent and Trademark Office. The '342 Patent is titled "Dynamic Page Generator." The '342 patent is not subject to a terminal disclaimer and its term is extended under 35 U.S.C. 154(b) by 891 days. (Ex. M). A true and correct copy of the '342 Patent is attached hereto as Exhibit M and incorporated herein by reference.

89. Digi Portal is the assignee of all right, title and interest in the '342 patent, including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the '342 patent. Accordingly, Digi Portal possesses the exclusive right and standing to prosecute the present action for infringement of the '342 patent by Defendant.

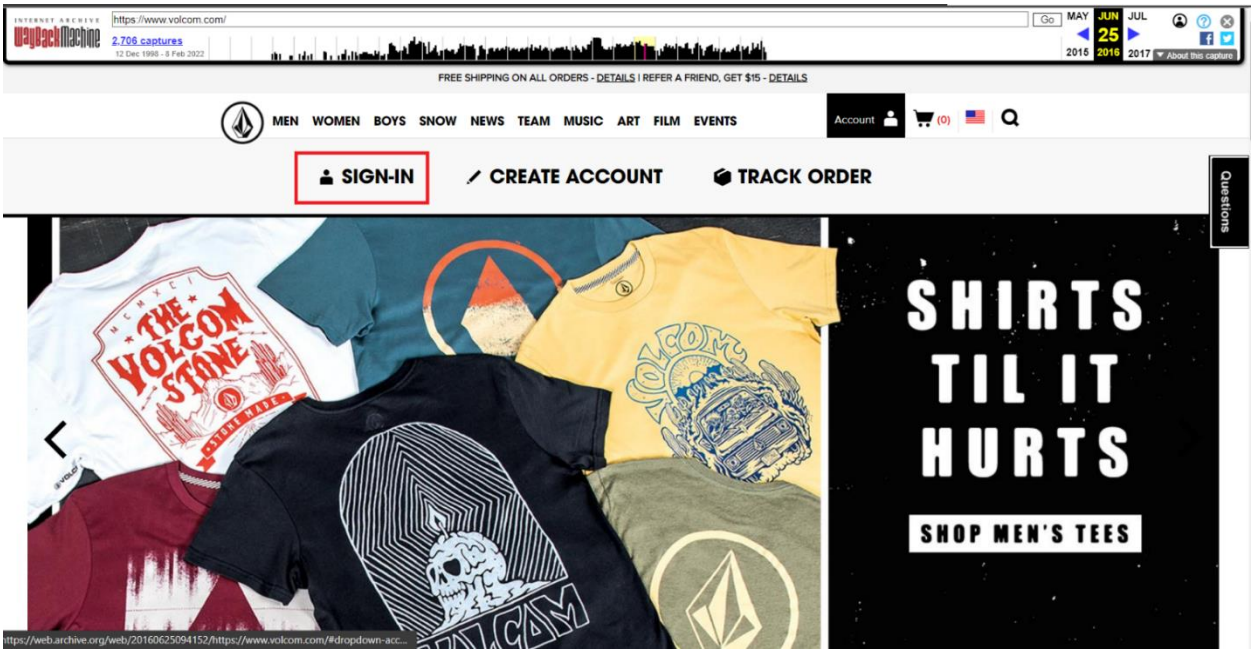
90. The application leading to the '342 patent was filed December 21, 2012, as a continuation of application no. 11/842,095, which was a continuation of application no. 11/656,636, which is a continuation of 09/393,718, which was a continuation of application no. 08/873,975, which issued as the '227 patent. (Ex. M at cover).

91. The invention in the '342 patent relates to the field of customized information presentation on the web; more specifically, providing customized pages that are quickly served and scalable to handle many users simultaneously. (*Id.* at col. 1:33-37).

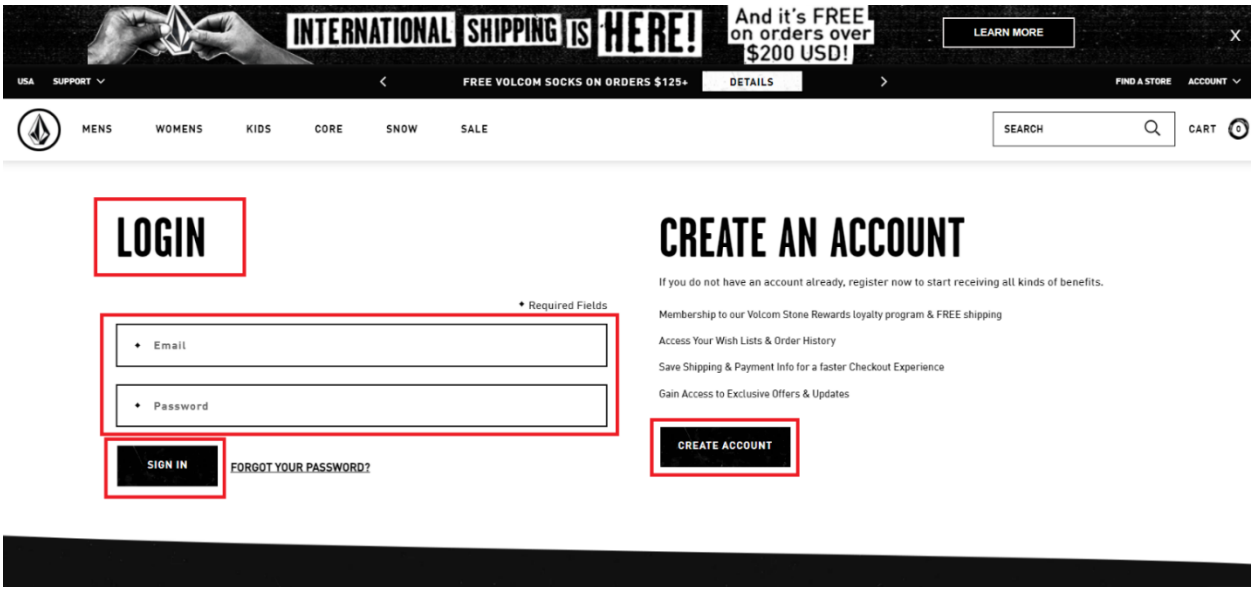
92. The '342 patent shares the identical specification as the '854 patent and therefore Digi Portal incorporates the background and discussion of the invention in Paragraphs 13-25.

93. **Direct Infringement.** Upon information and belief, Defendant has been directly infringing at least claims 1 and 7 of the '342 patent in Delaware, and elsewhere in the United States, by performing actions comprising performing the claimed method steps, including without limitation through the method implemented of providing a user's https://www.volcom.com/ page ("Accused Instrumentality"). The Accused Instrumentality practices a method for receiving a user

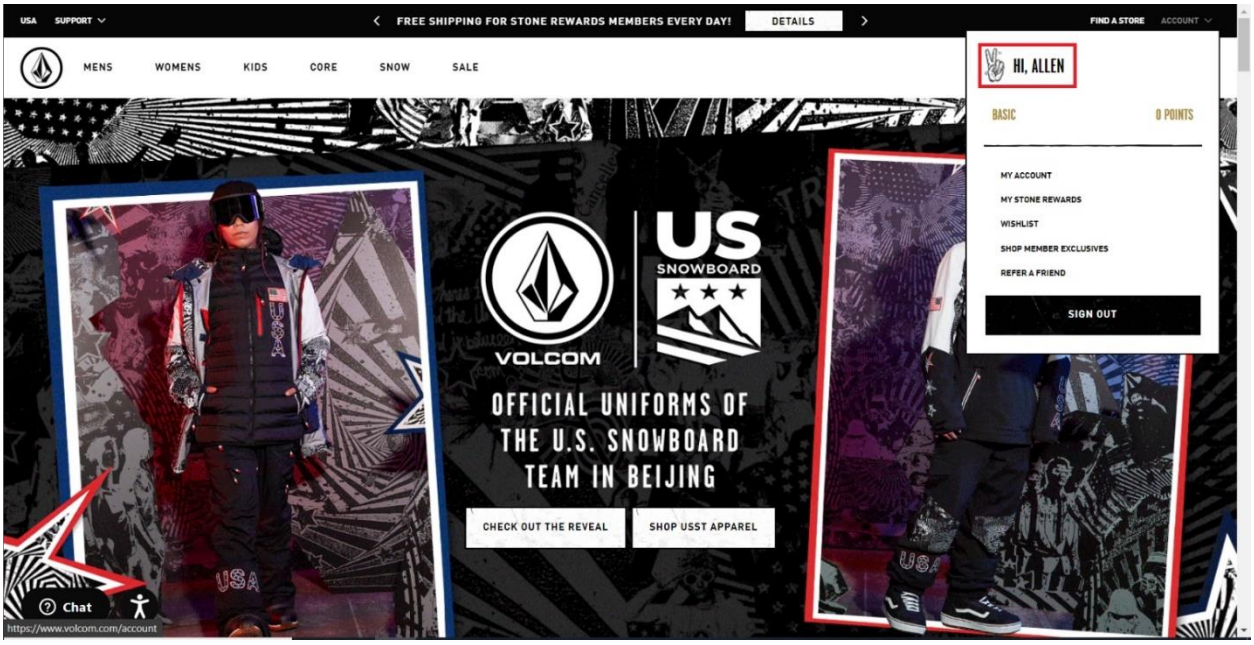
request (*e.g.*, a user login request, search initiation, etc.) for a customized page (*e.g.*, a user's customized home and search pages on the volcom.com). (*E.g.*, https://www.volcom.com/).



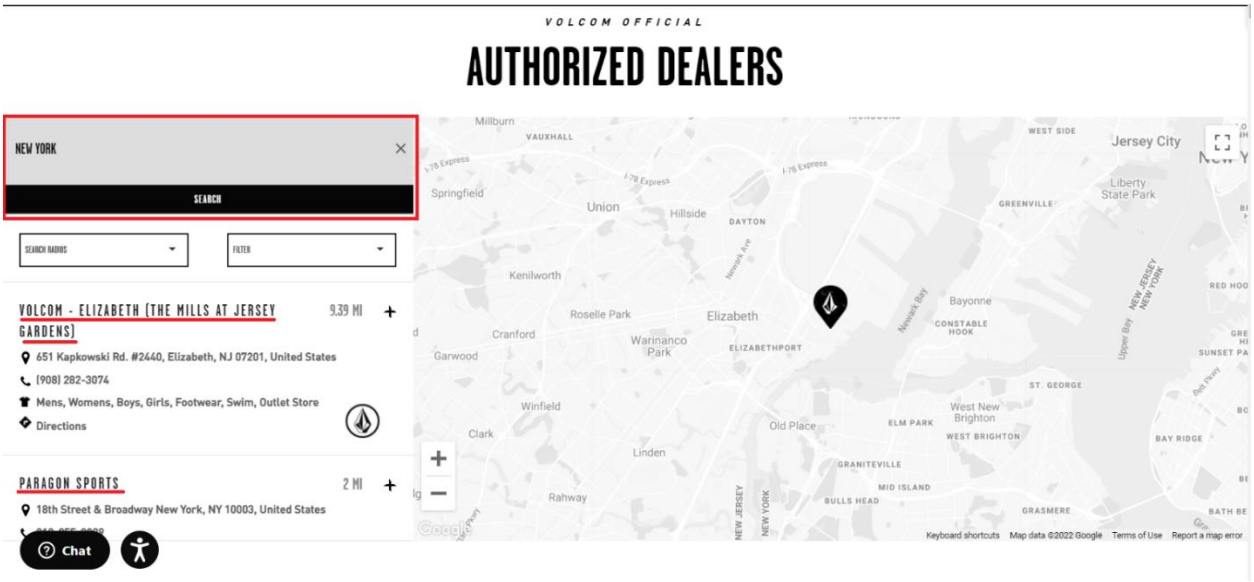
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/account/login (for a particular user)).



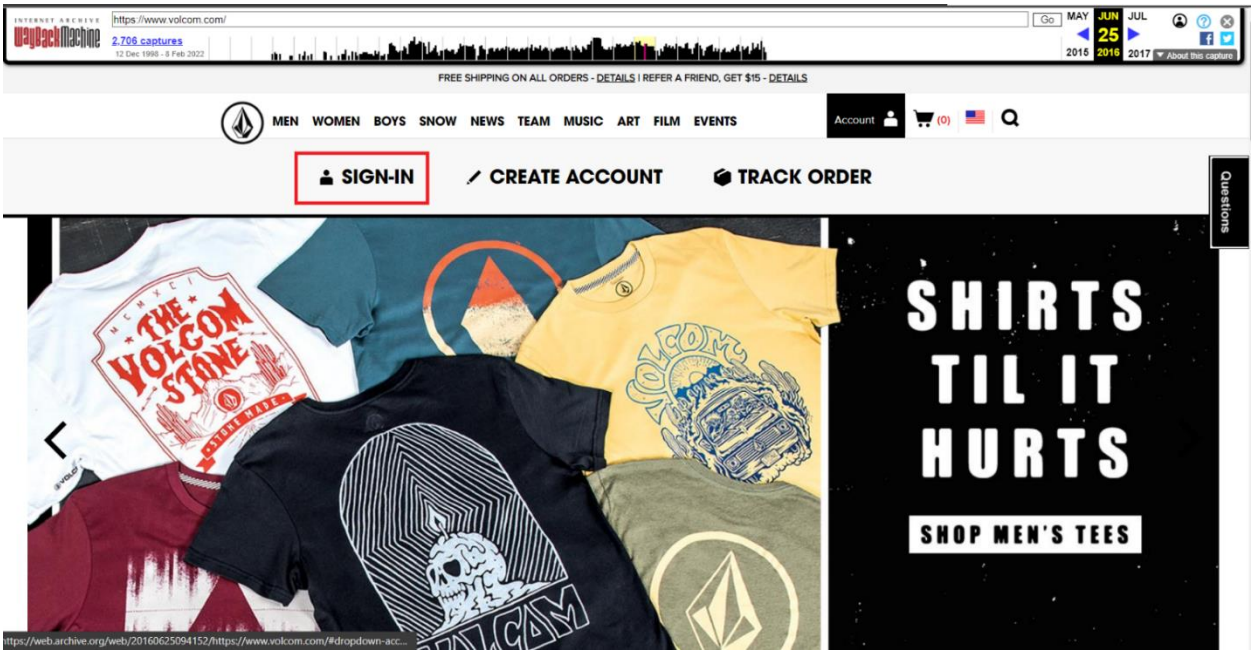
(*E.g.*, https://www.volcom.com/ (for a particular user)).



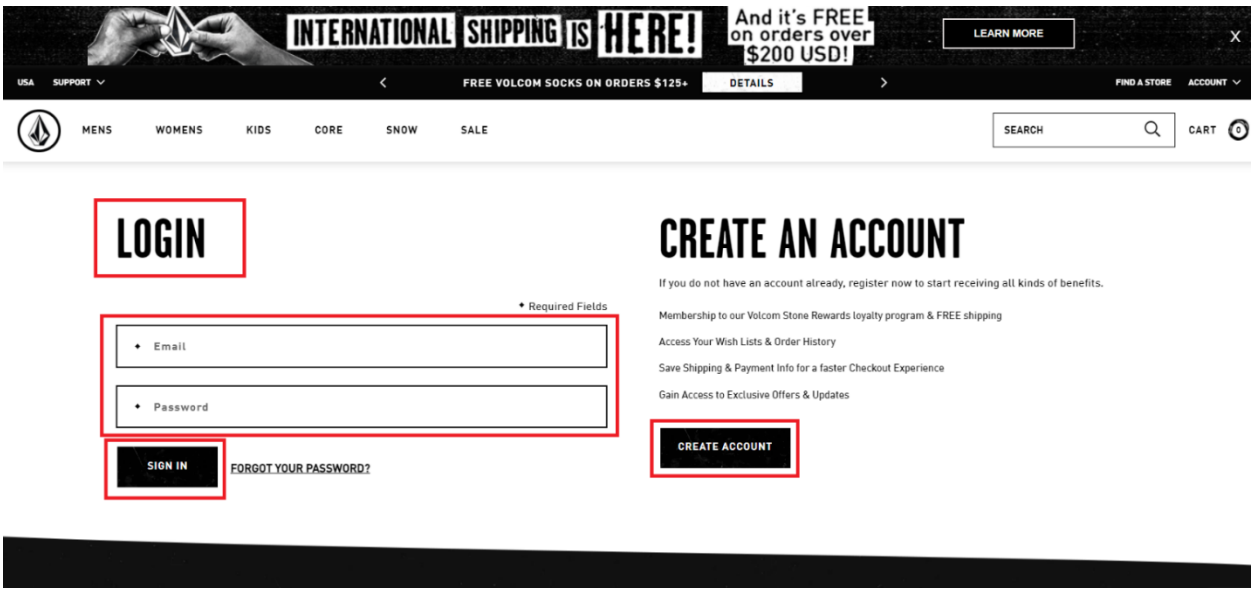
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

94. On information and belief, the Accused Instrumentality generates, via at least on server computer (*e.g.*, volcom.com servers), a template program unique to the user (*e.g.*, a template program will be unique to a user because it is composed of instruction, code, and data that is processed/executed to create a webpage customized to a user (*e.g.*, after a user logs in, the pages

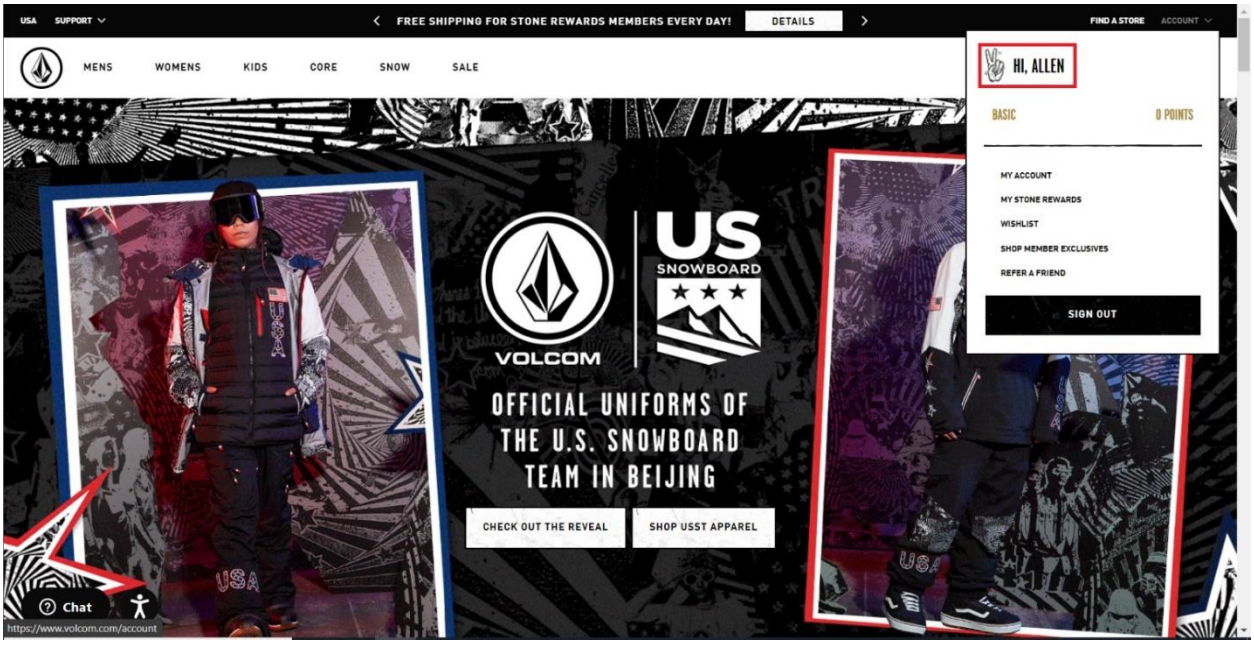
displayed to the user will show the user's name); volcom.com server provides at least a portion of the unique template program, such as a generic template containing JavaScript and other code that executes at a user's computer to create a customized webpage), the template program being used to form the user's customized web page (*e.g.*, a webpage with customized content such as the display of a user's name, and store search results) , wherein the template program is generated using customization information unique to the user (*e.g.*, user account preferences/data and user search parameters) and a global template that is generic to a plurality of users (*e.g.*, a generic template that dictates web page layout). The Accused Instrumentality combines the user customization information (*e.g.*, preferences tied to a user account that is logged in, and the search terms inputted by a user such as preferences set by user for store search) for the user and a generic template (*e.g.*, a generic webpage template) to form a template program specific to a user (*e.g.*, the code for the entire webpage that utilizes a generic template in combination with preferences tied to a logged in user account and a user's inputted search terms to create a customized webpage for display). As shown below, volcom.com uses a generic template to define how the webpage should generally be laid out and displayed. Volcom.com will then combine the template with customized data pulled based upon a user's search inputs and preferences tied to a logged in user account in order to create a template program executable by a user's browser, so that the customized webpage can be displayed to the user.



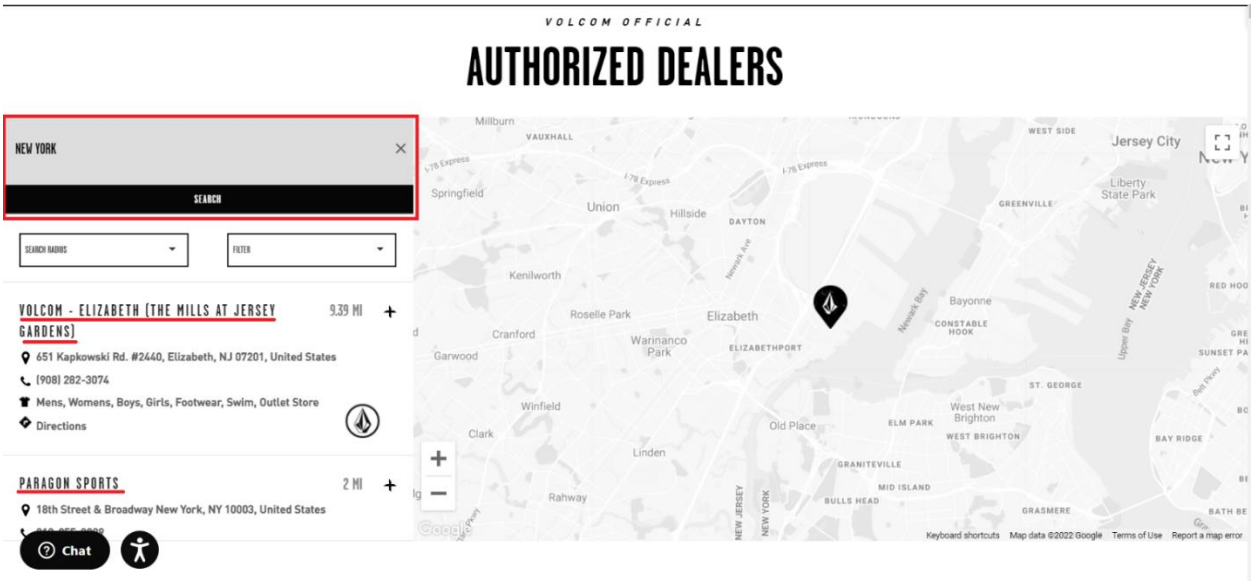
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



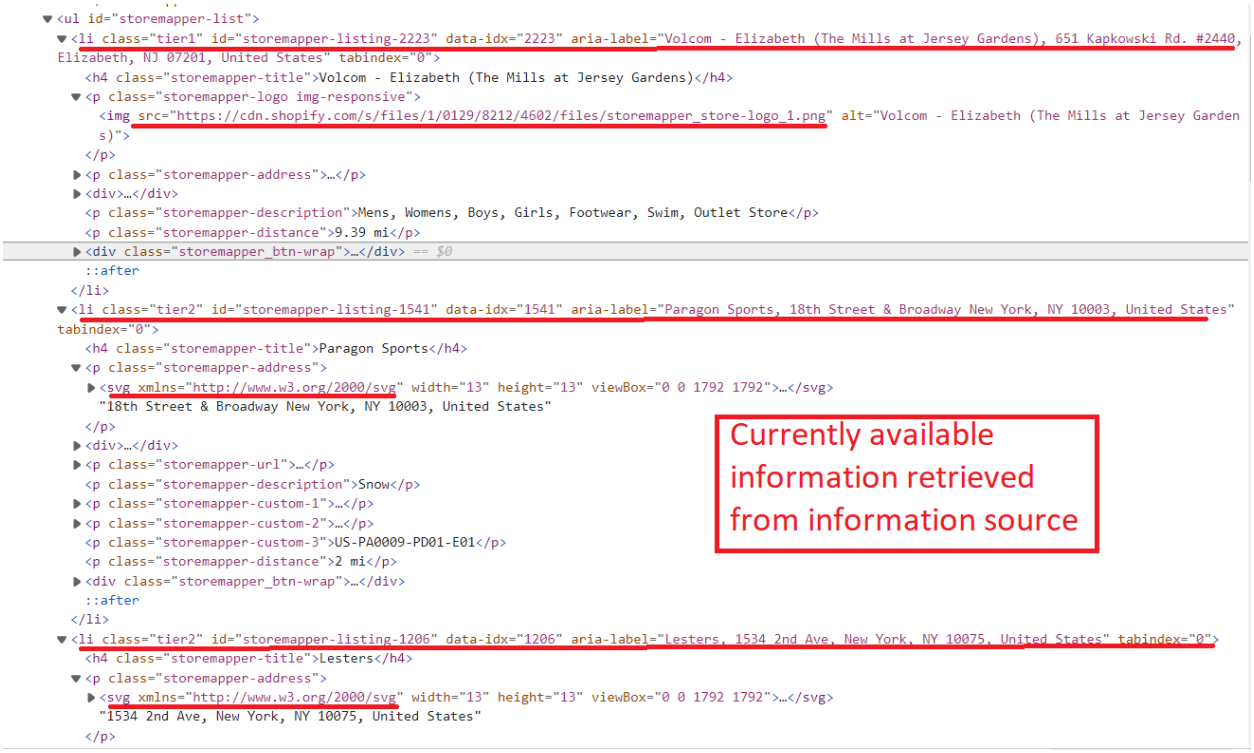
(*E.g.*, https://www.volcom.com/account/login).

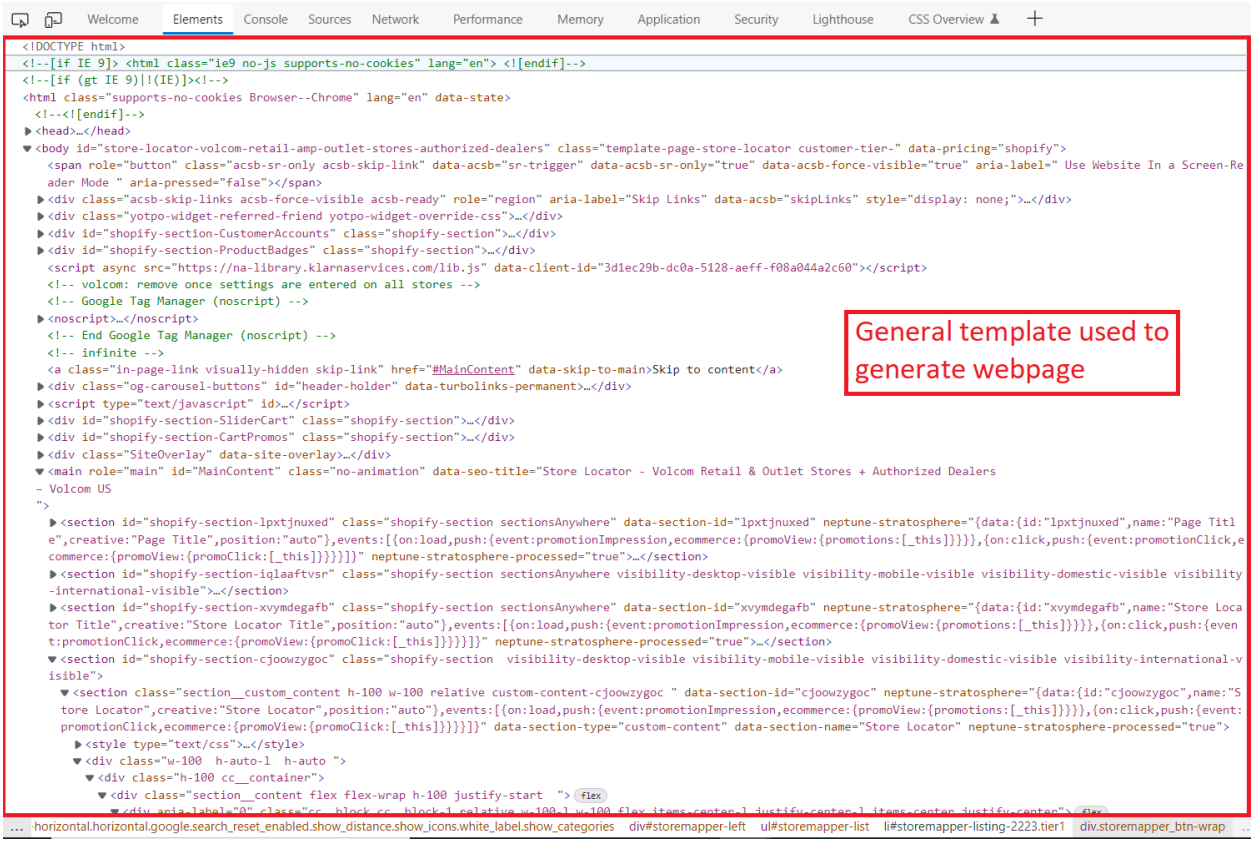


(*E.g.*, https://www.volcom.com/ (for a particular user)).

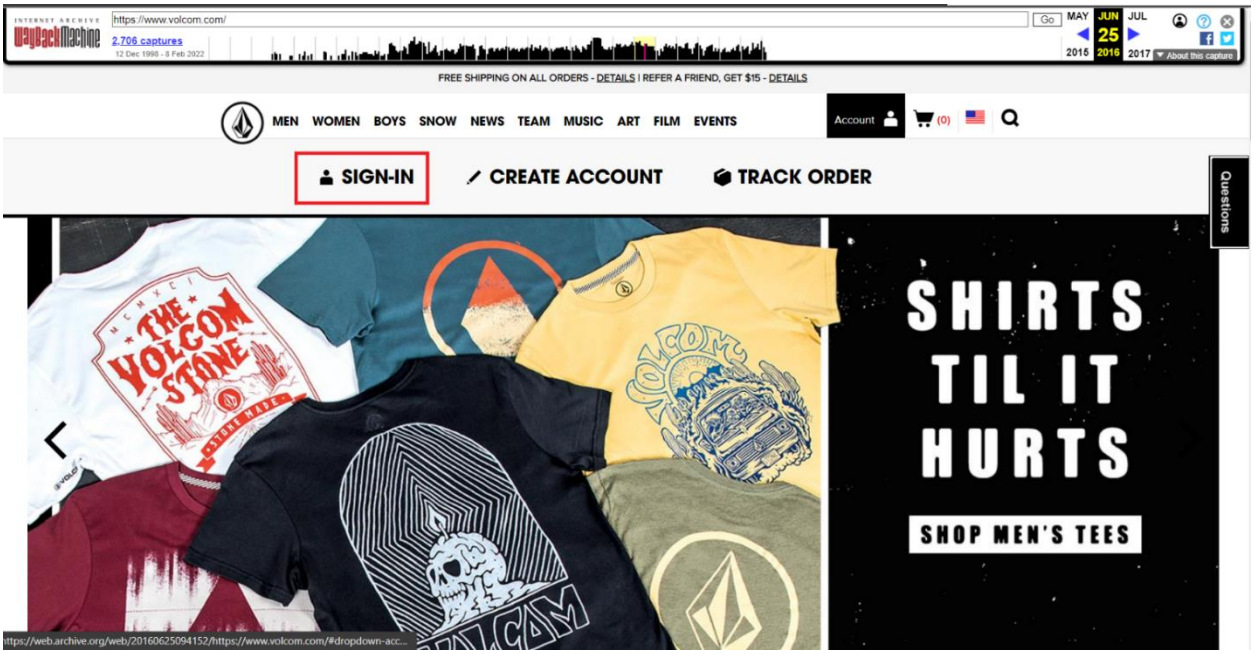


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

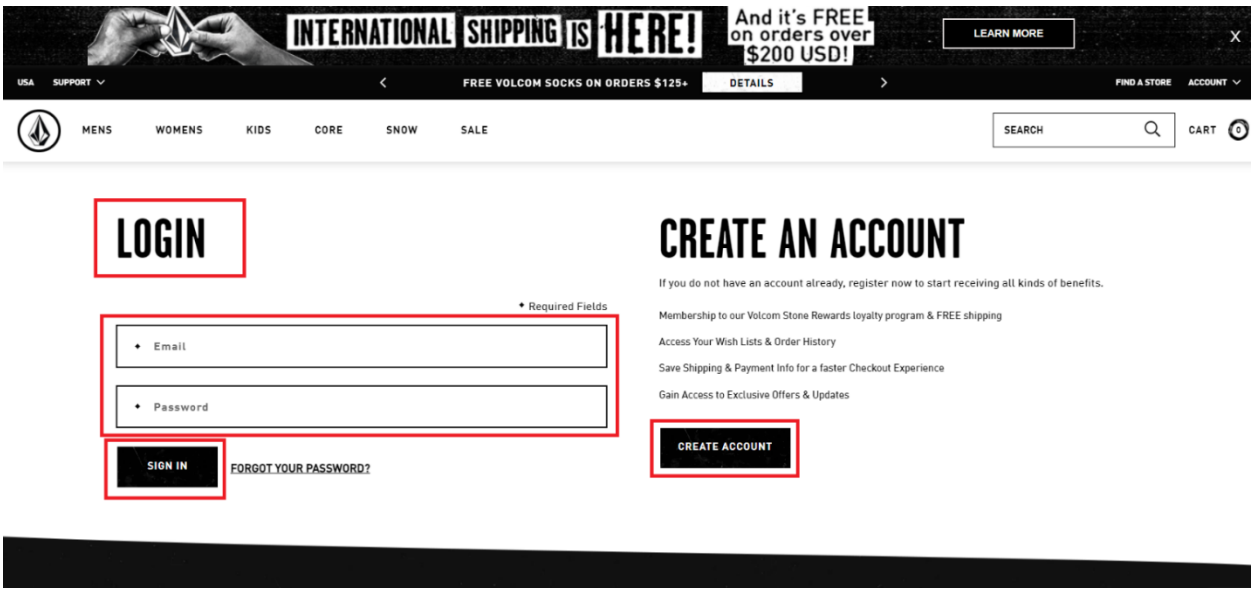




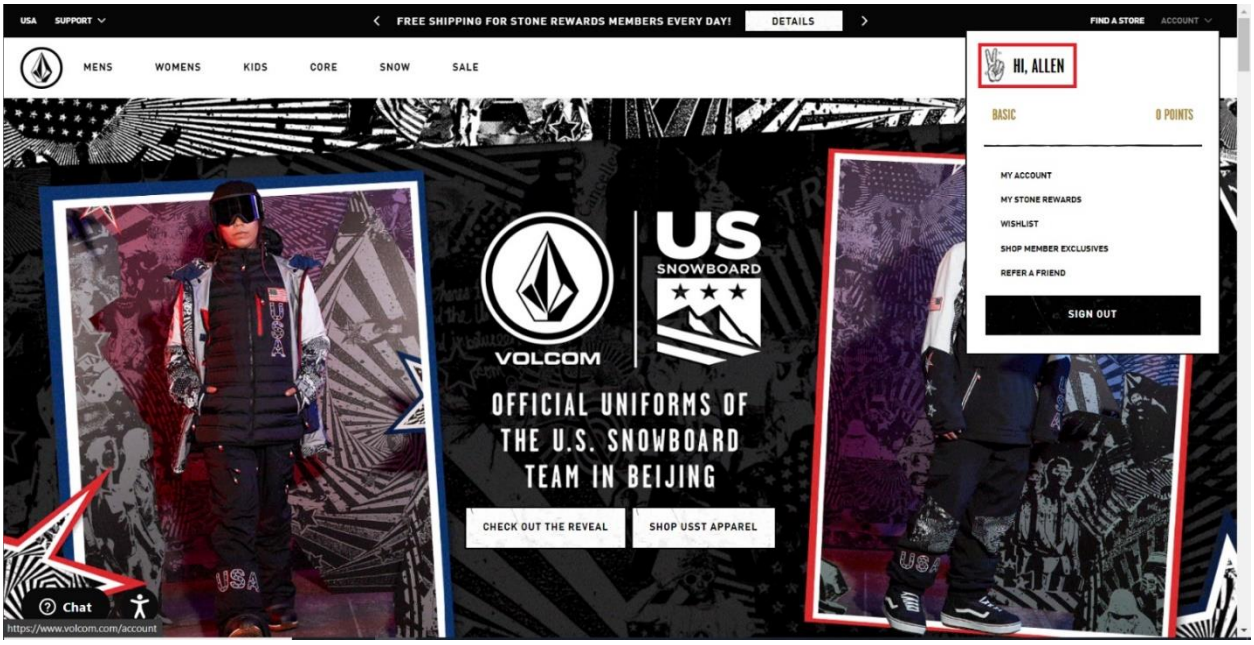
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).



(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



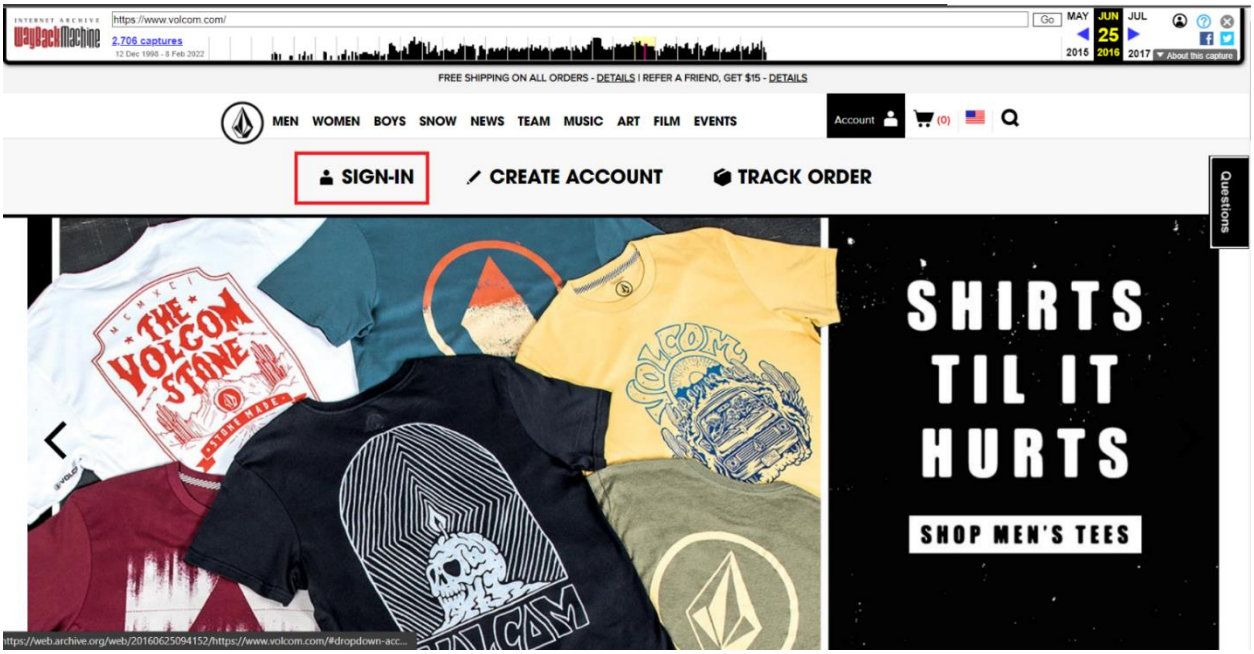
(*E.g.*, https://www.volcom.com/account/login).



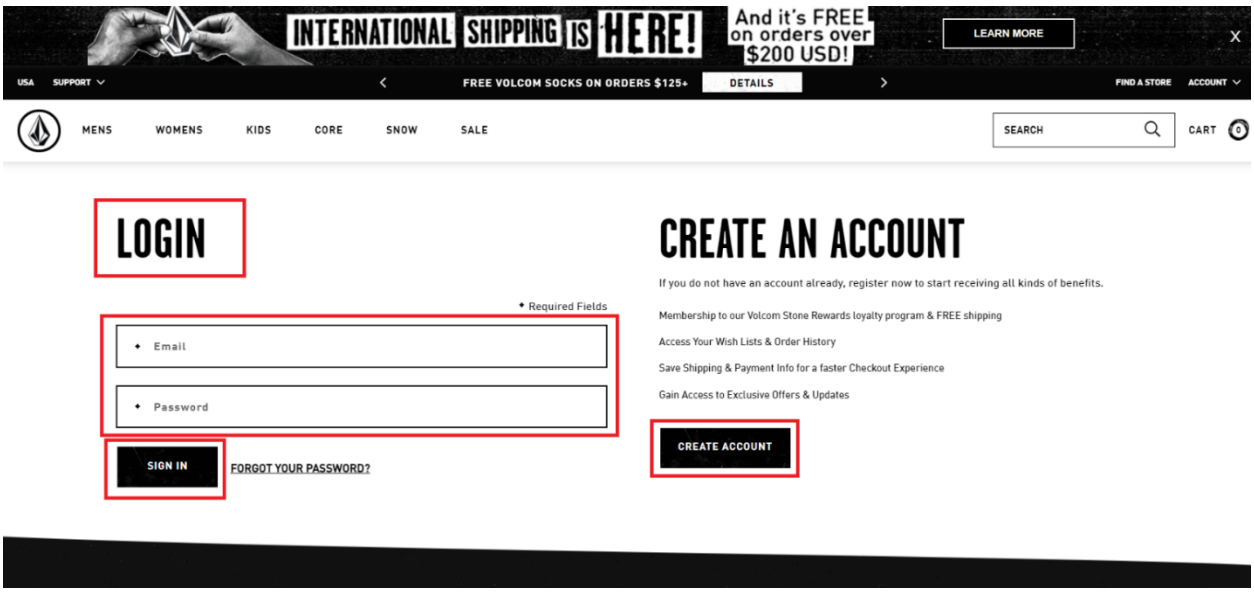
(*E.g.*, https://www.volcom.com/ (for a particular user)).

(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

95. On information and belief, the Accused Instrumentality executes via the at least one server computer (*e.g.,* a volcom.com server or volcom.com controlled server) the user's template program (*e.g.,* a template program is composed of instructions, code and data used to create a user webpage (*e.g.,* after a user logs in, the pages displayed to the user will show the user's name); the volcom.com server provides a generic template that can be customized to a user, additionally, volcom.com servers will provide content that corresponds to a user's request/preferences; thus, although the final webpage may be created on a user's computer via their browser, volcom.com servers are involved in the execution process of the template program used to create said webpage) to generate the user's customized web page (*e.g.,* store search results page displayed with other customized info such as a user's name), the user's customized web page including real-time information selected for the user's customized web page based on customization information unique to the user (*e.g.,* store availability information will be gathered based upon a user's search parameters). As shown below, volcom.com uses an API and or script to gather store information from information sources in real time.



(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



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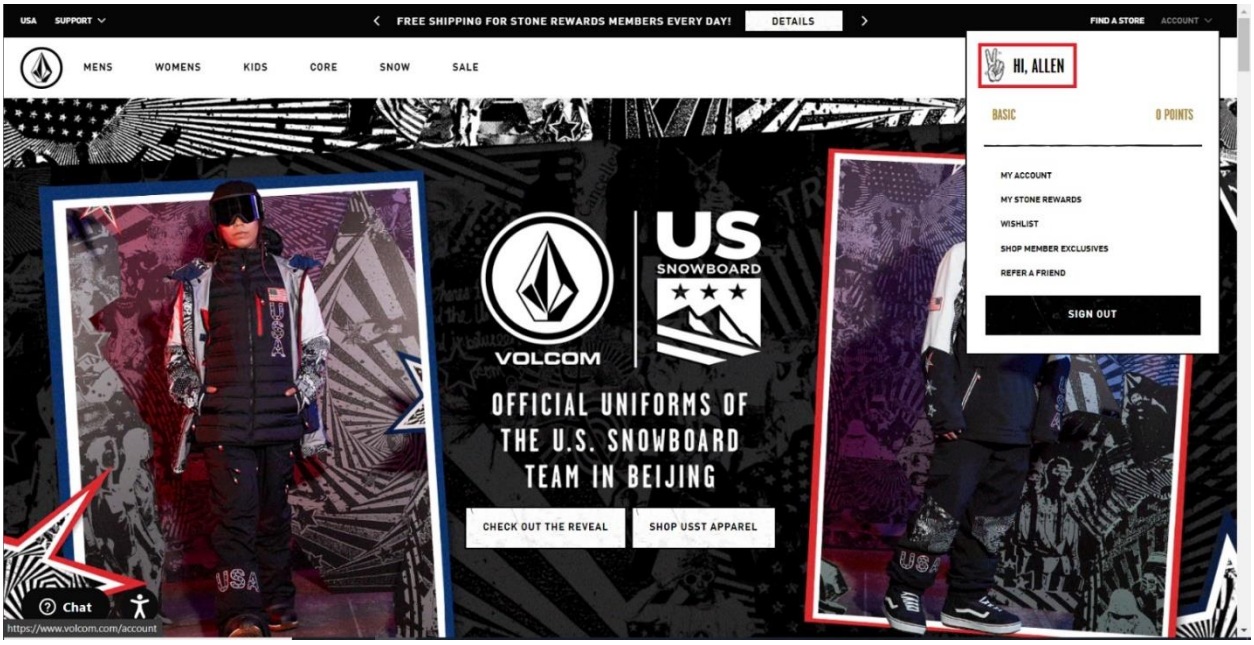

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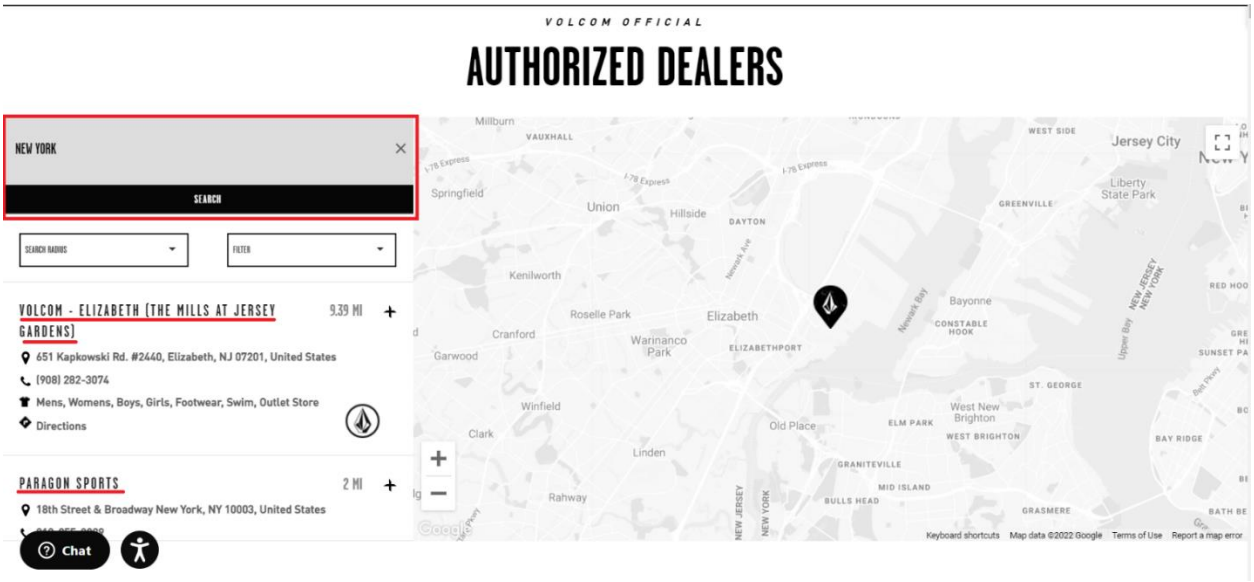
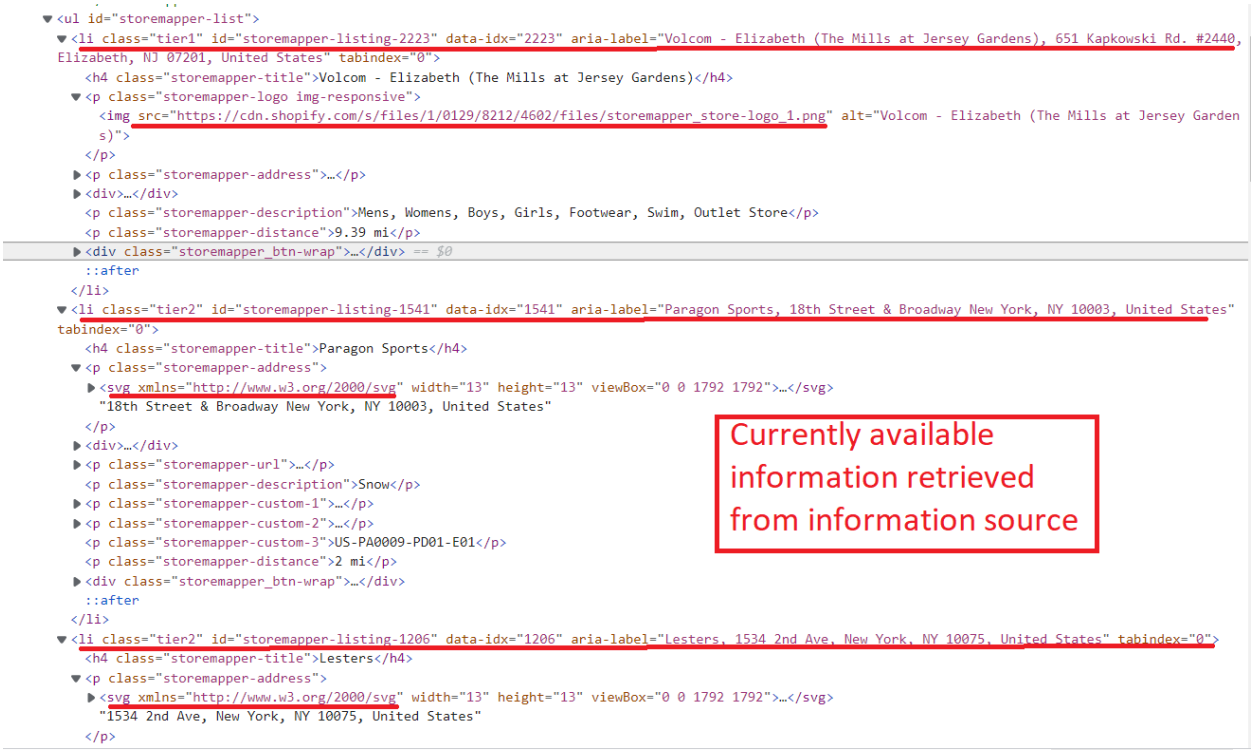
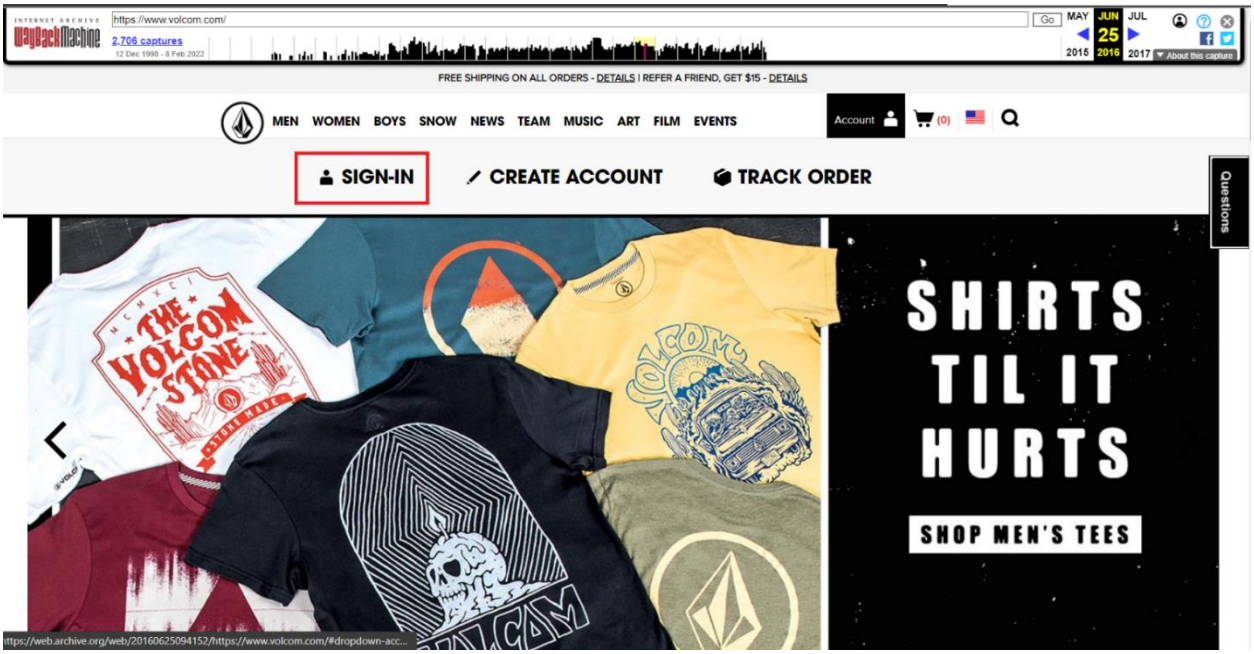


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

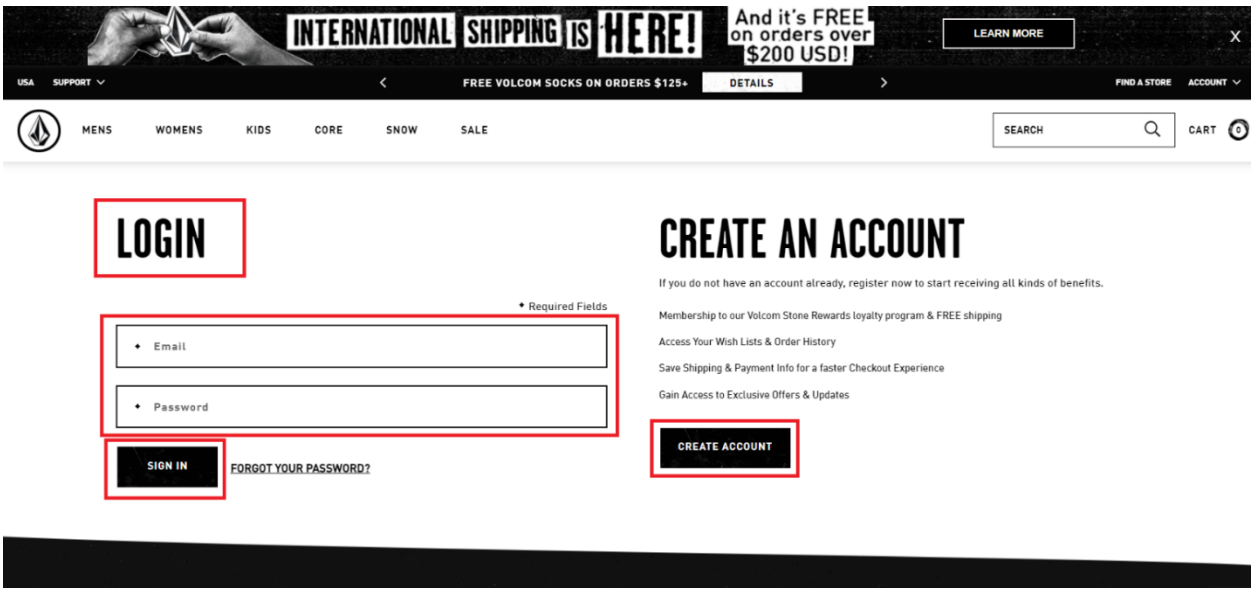


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

96. In at least testing and usage, the Accused Instrumentality practices serving, via the at least one server computer (*e.g.*, a volcom.com server), the user's customized web page (*e.g.*, volcom.com servers will be involved in serving a user's customized webpage by providing the generic template program and any content called in response to modifications made to the generic template program based upon a user's search parameters and account preferences).



(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



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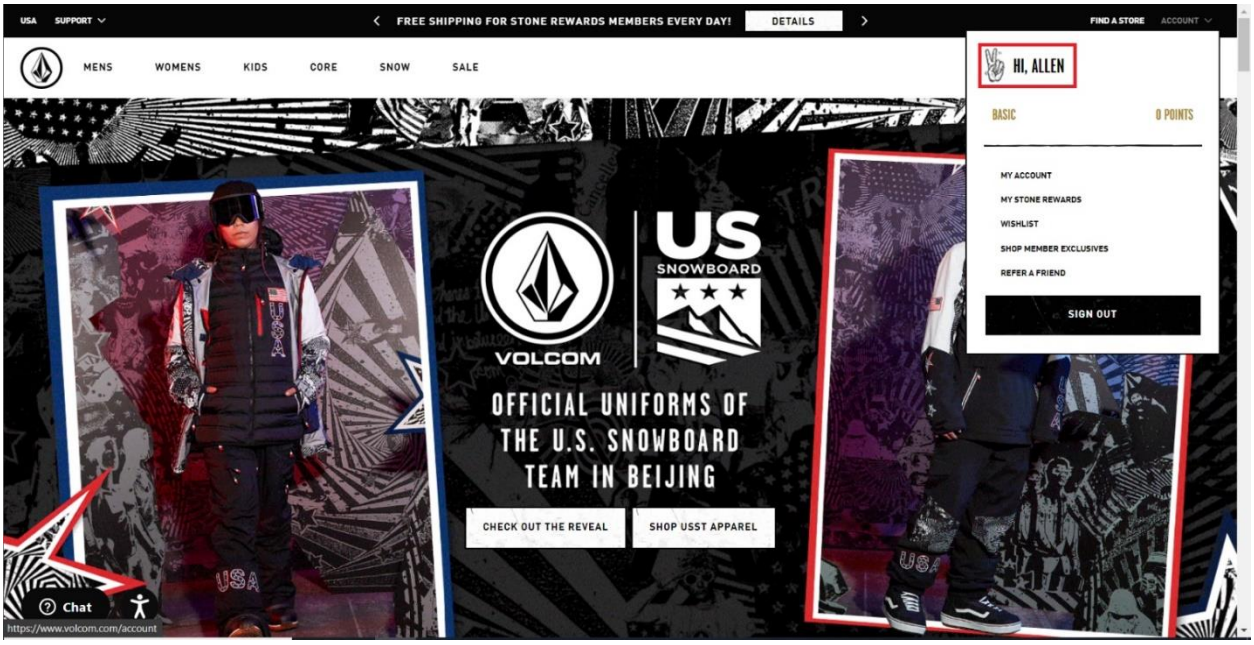
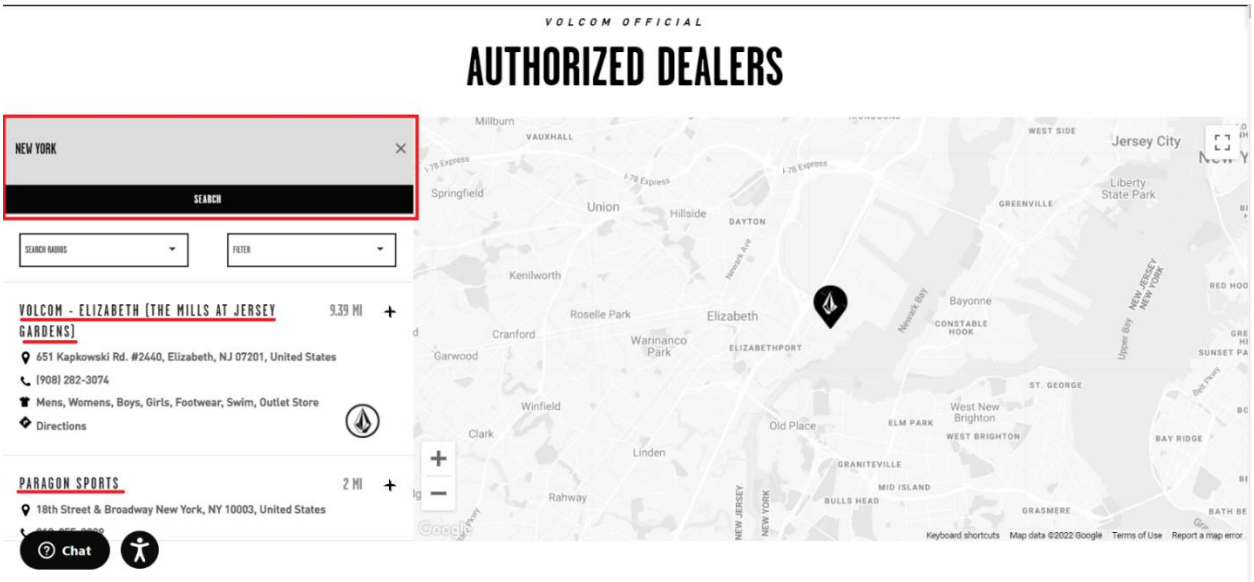


(*E.g.*, https://www.volcom.com/ (for a particular user)).

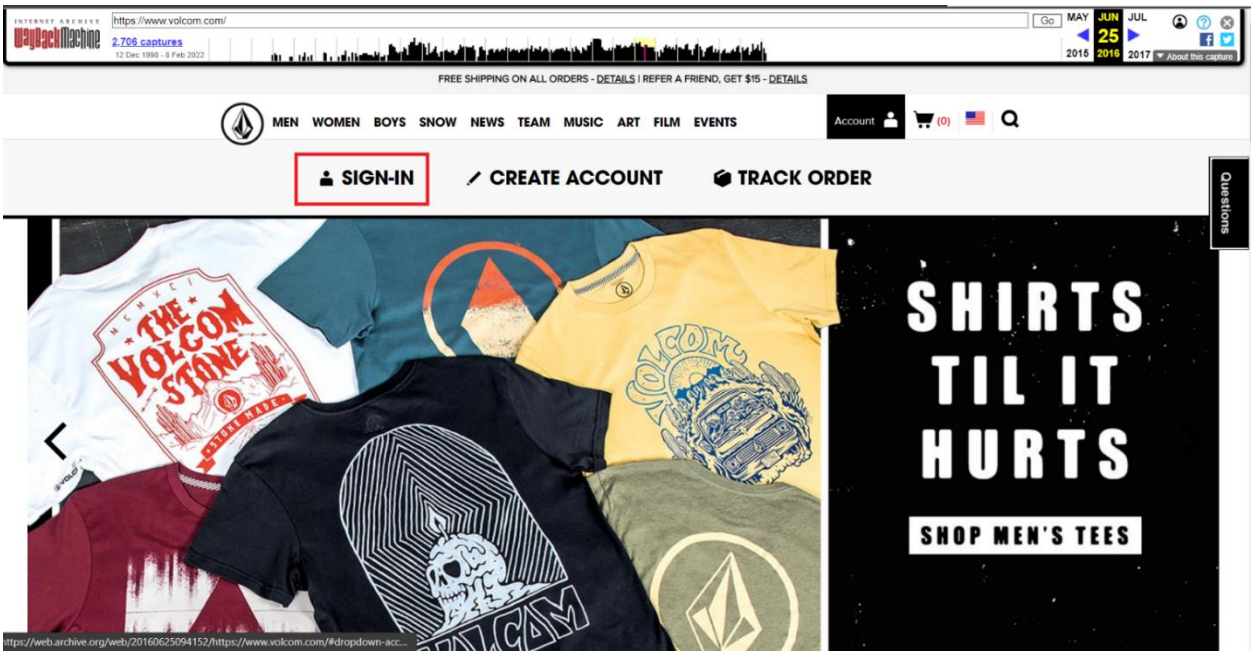


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

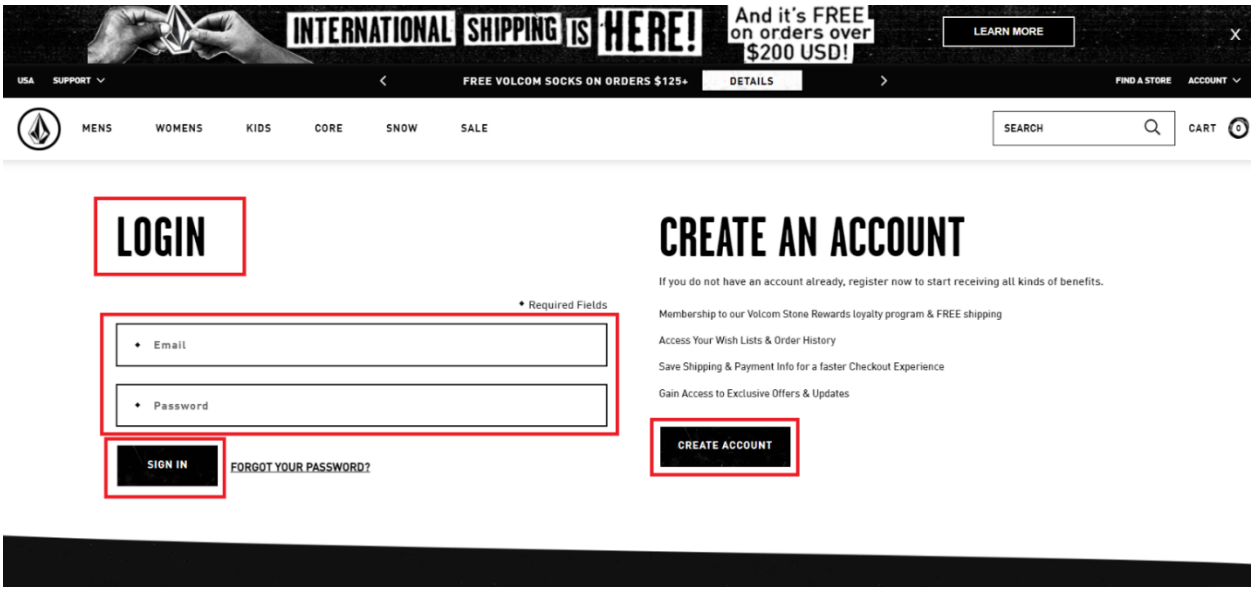
97. On information and belief, the Accused Instrumentality, in response to receiving a subsequent request for the user's customized web page (*e.g.*, the receipt of a user's search initiation and login) practices receiving, via the at least one server computer (*e.g.*, a volcom.com server) a template program (*e.g.*, code, instructions, etc. that are executed to create a user page) that is unique

to the user from one of at least two locations, the location based upon a frequency of user requests for the customized page (*e.g.*, certain components of the webpage may be retrieved from local cache, CDN servers, or cookies, as opposed to a main server, if said components were kept in cache due to a user's frequent request for the same or similar page). In at least testing and usage, the Accused Instrumentality practices receiving a template program (*e.g.*, software instructions and data used for rendering a particular user's search results page such as a JavaScript page) that is unique to the user (*e.g.*, JavaScript pages will be specific to a user because the content can be modified by and/or customized for a user (*e.g.*, after a user logs in, pages can display customized information such as a user's name, in addition to booking search results tied to a user's inputted preferences)) and based on user configuration information (*e.g.*, a user can customize the content of their templates and what will be rendered and displayed using said templates by entering information such as their location and by logging in to their account) the user configuration information being supplied by the user (*e.g.*, a user will have supplied their name and any other preferences tied to their account and will have input preferences applicable to a store search) and used to build the template program that is unique to the user (*e.g.*, user configuration information is used to modify templates, create instructions, and designate appropriate data retrieval for rendering the user's specific page) and wherein the template program is received from one of at least two locations (*e.g.*, the data and templates comprising a user's page may be retrieved from a main server/disk storage or other sources such as local cache, CDN server, and cookies), the location determined from the frequency of the user request for the customized page (*e.g.*, based on the frequency at which a user logs in or accesses the volcom.com page, the data comprising the users page may be stored at a main server or at other locations such as local cache, a CDN server, or cookies). Webpage information can be stored in a Javascript object that is used in logic to

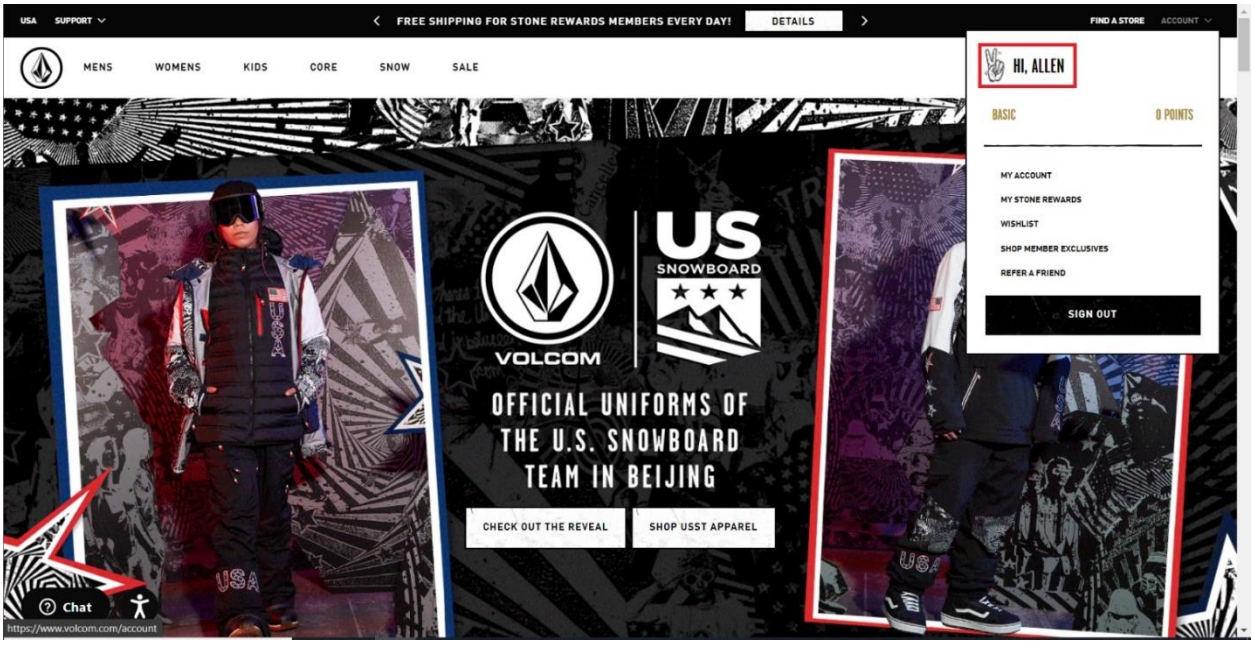
display various available store, a user's name and other site logic-based conditions. The template information is stored in multiple locations: (1) At runtime, in a Javascript object with the data structure called Context Data; (2) Within browser local storage; and (3) browser cookies.



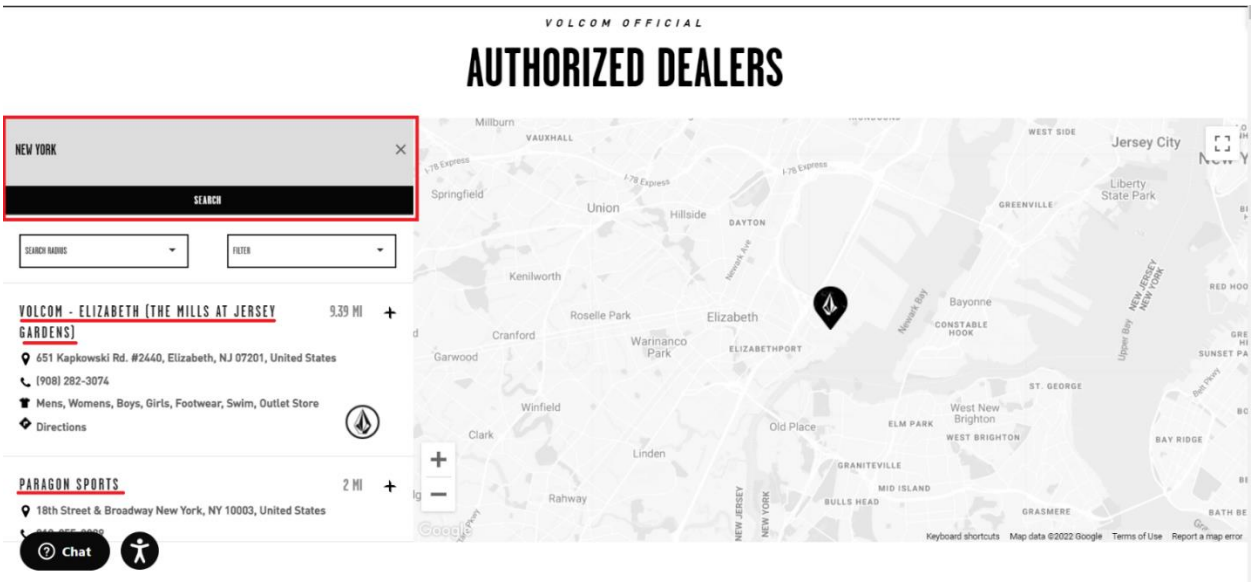
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/ (for a particular user)).

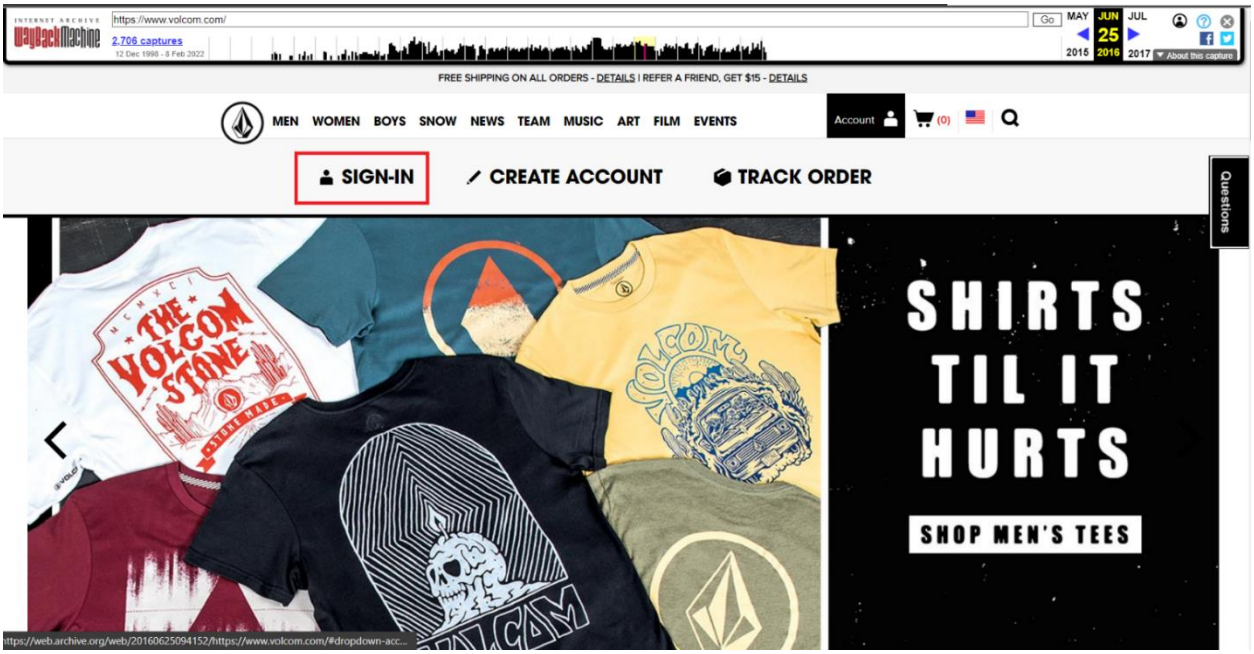


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

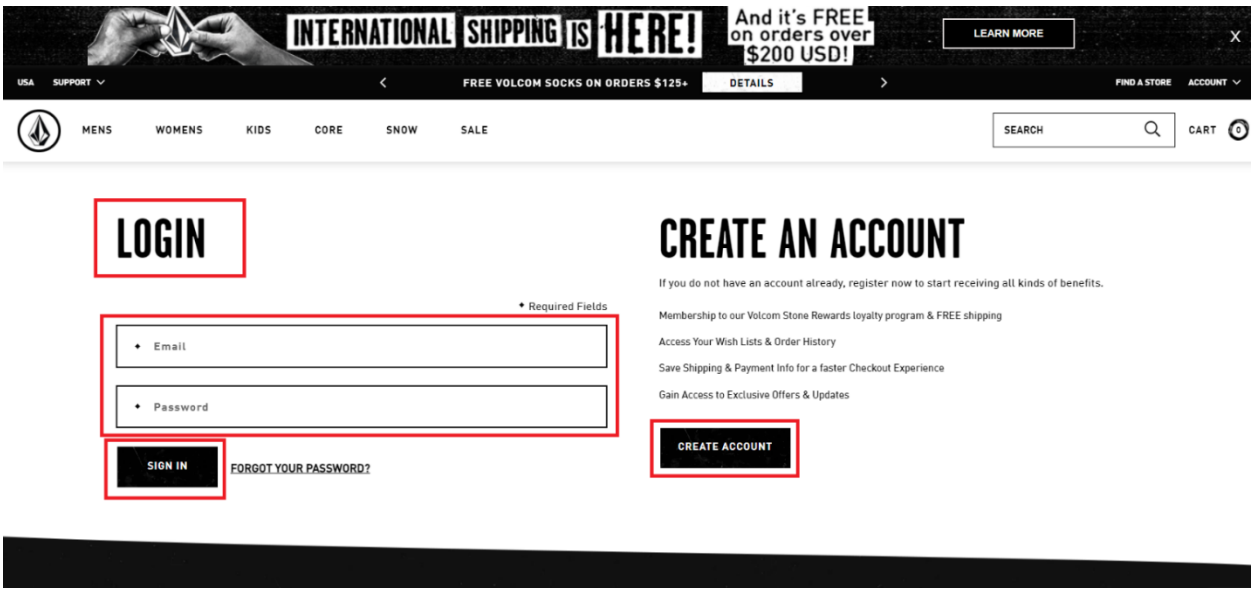
(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

(*E.g.*, https://cdn.searchspring.net/intellisuggest/is.min.js (for a particular user)).

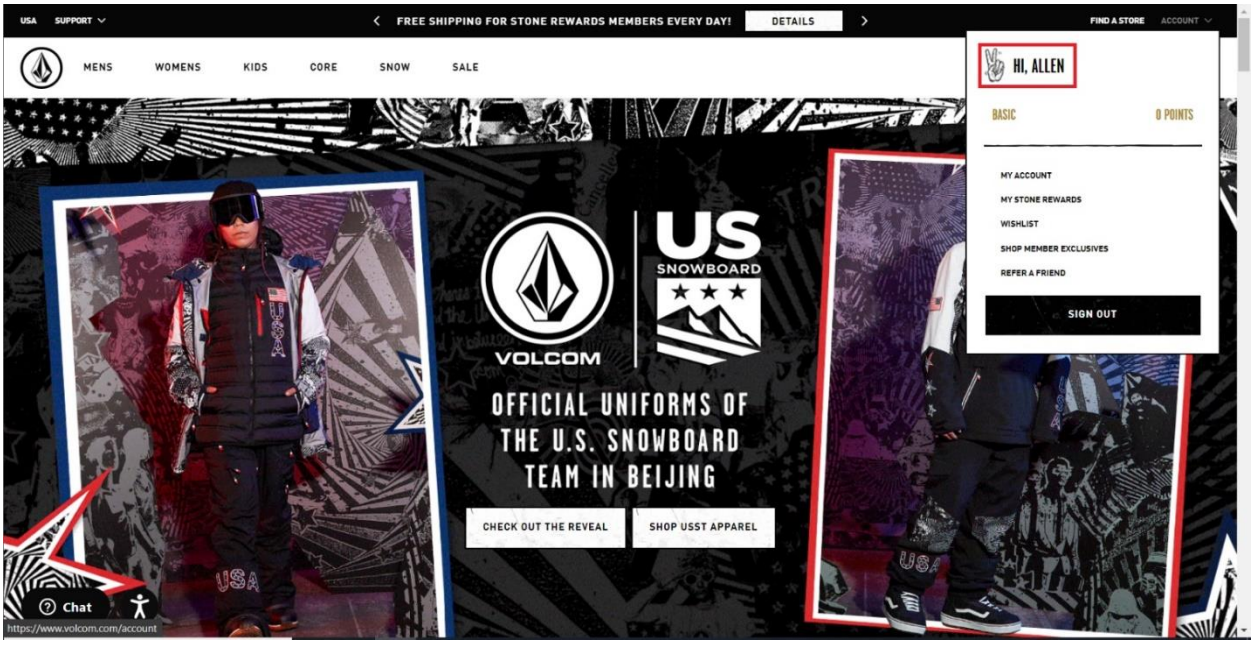
98. On information and belief, the Accused Instrumentality executes via the at least one server computer (*e.g.*, a volcom.com server) the user's template program (*e.g.*, a template program is composed of instructions, code and data used to create a user webpage (*e.g.*, after a user logs in, the pages displayed to the user will show the user's name); the volcom.com server provides a generic template that can be customized to a user, additionally, volcom.com servers will provide content that corresponds to a user's request/preferences; thus, although the final webpage may be created on a user's computer via their browser, volcom.com servers are involved in the execution process of the template program used to create said webpage) to generate the user's customized web page (*e.g.*, store search results page displayed with other customized info such as a user's name), the user's customized web page including real-time information selected for the user's customized web page based on customization information unique to the user (*e.g.*, store availability information will be gathered based upon a user's search parameters) in response to the subsequent request based on the customization information unique to the user (*e.g.*, a web page displaying store search results will be created and displayed based upon a user's inputted search parameters and can be further customized based on account preferences (*e.g.*, displaying a user's name based on their account login)). As shown below, volcom.com uses an API and or script to gather store information from information sources in real time.



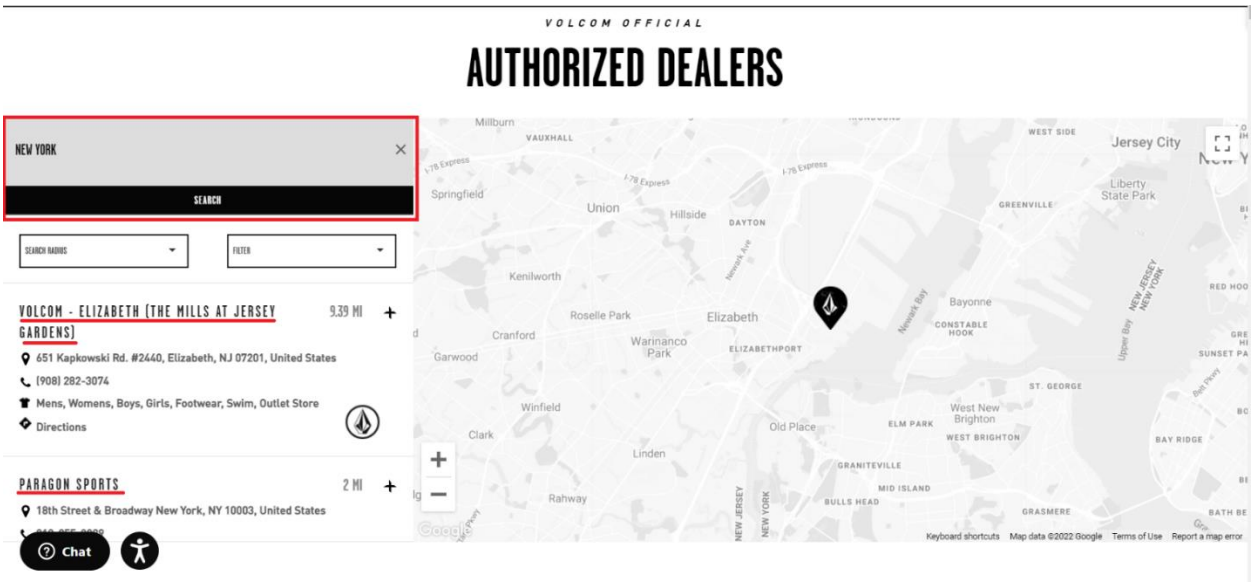
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



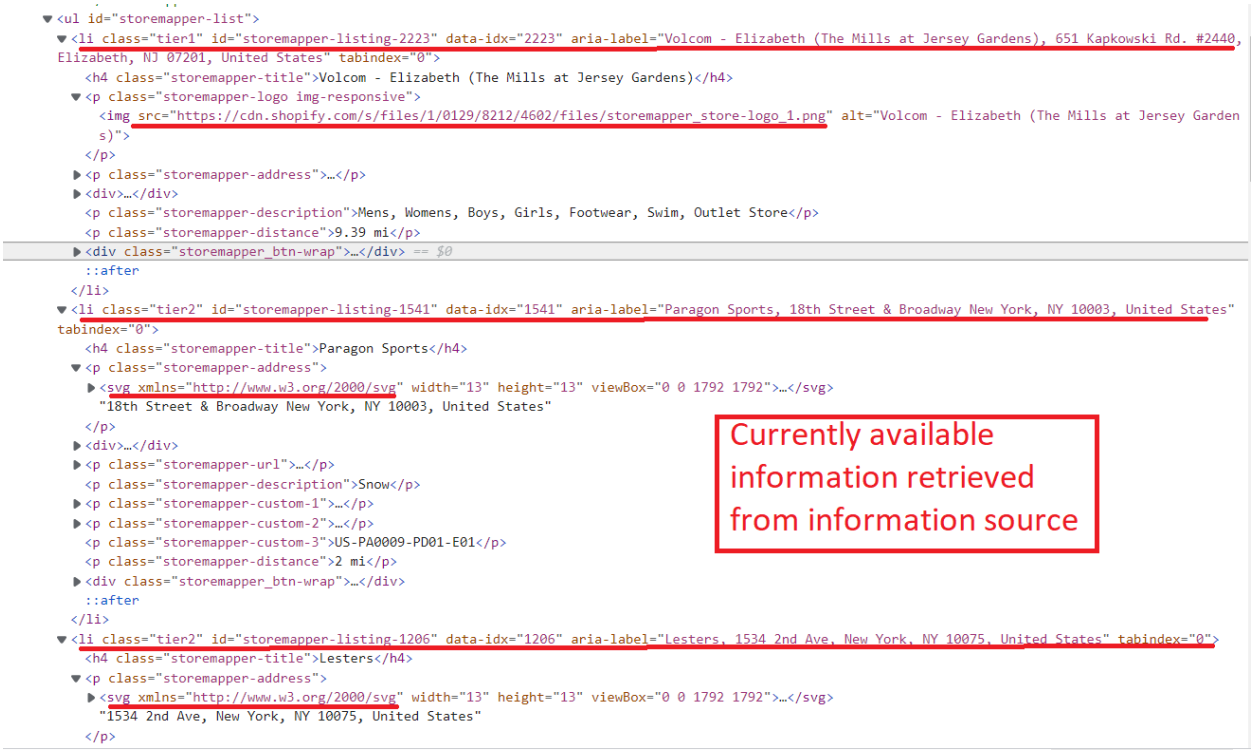
(*E.g.*, https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/ (for a particular user)).

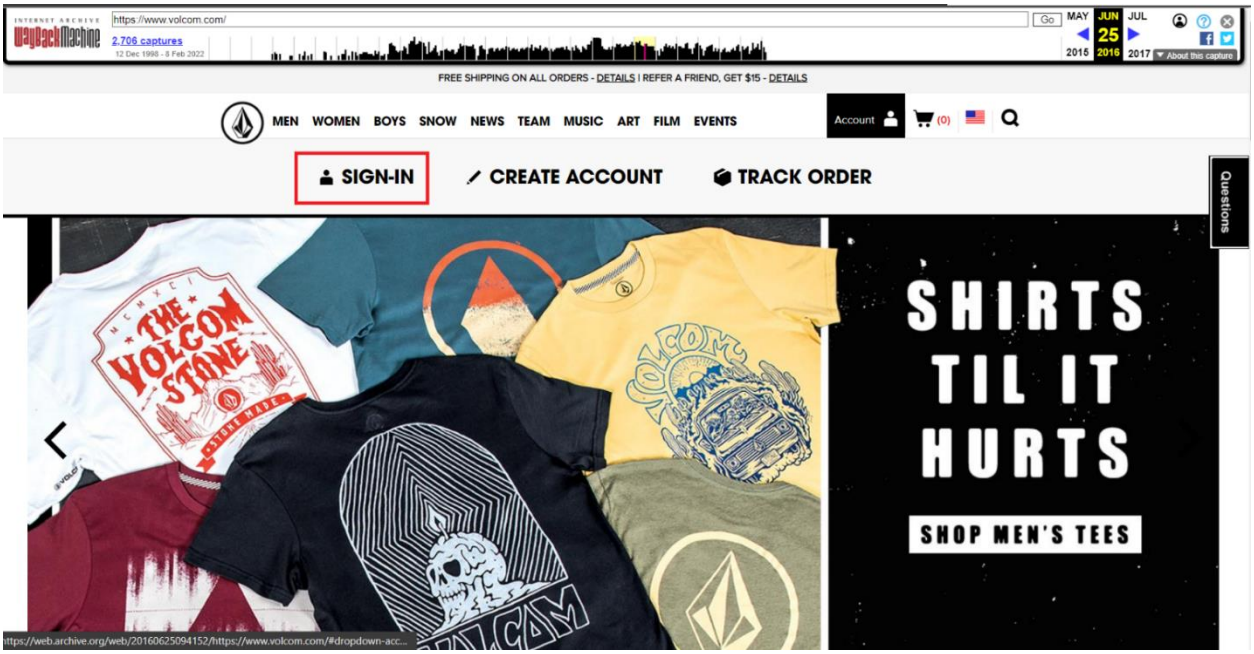


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

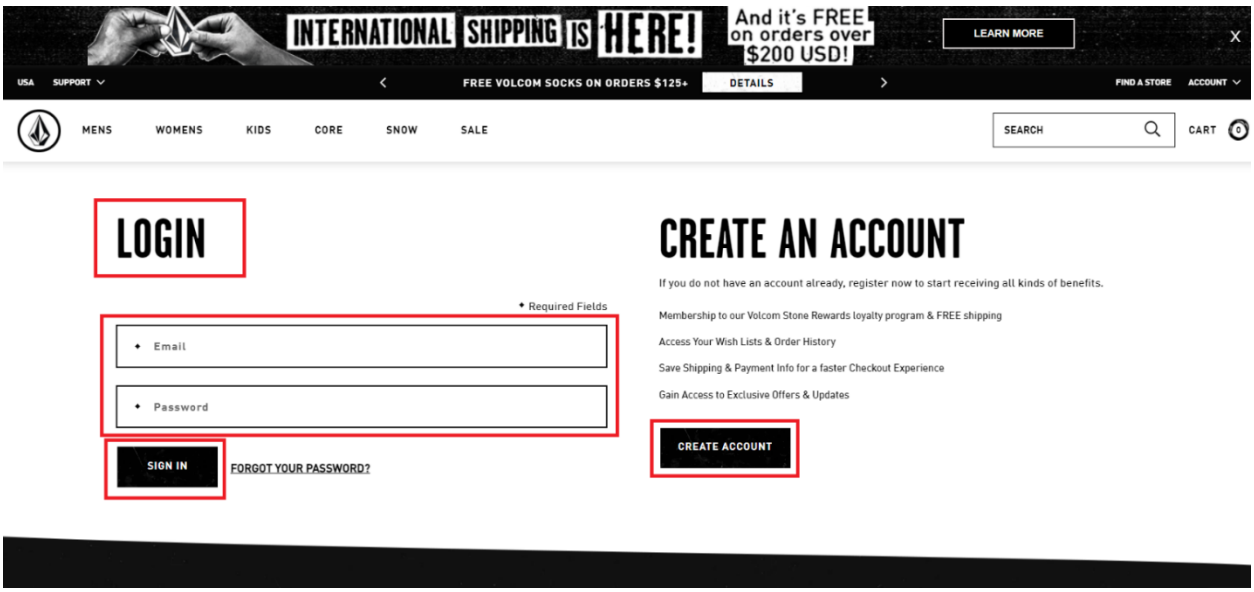


(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

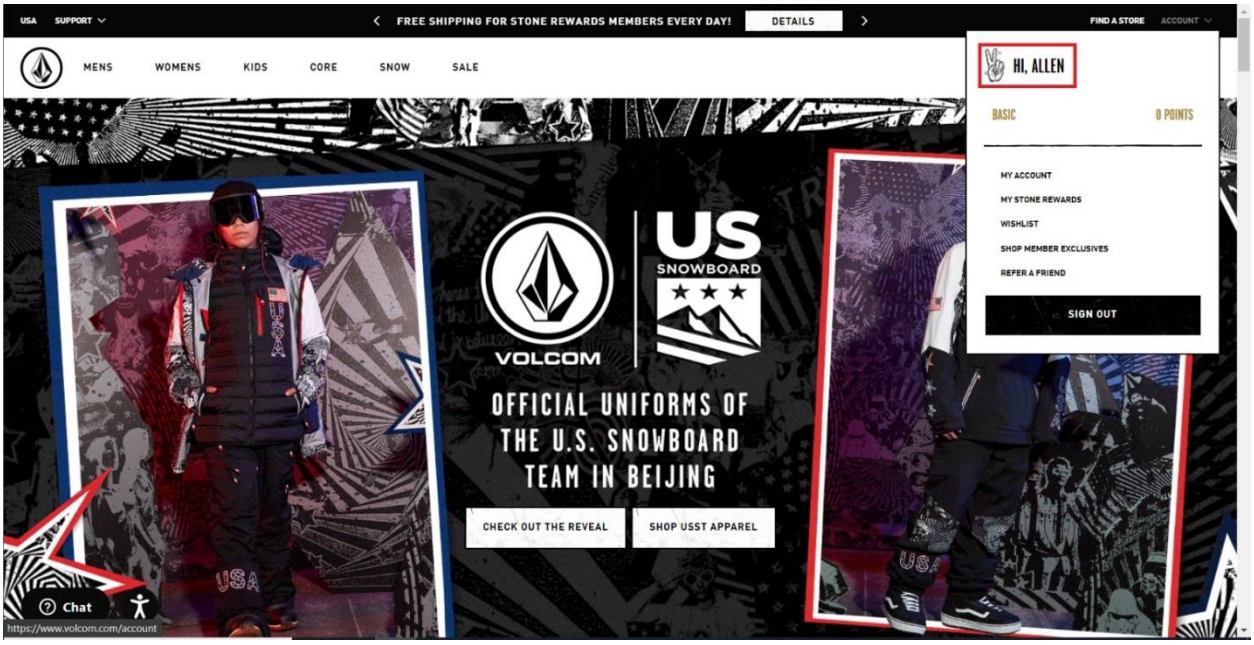
99. On information and belief, the Accused Instrumentality practices serving, via the at least one server computer (*e.g.*, a volcom.com server), the user's customized web page (*e.g.*, volcom.com servers will be involved in serving a user's customized webpage by providing the generic template program and any content called in response to modifications made to the generic template program based upon a user's preferences and account details).



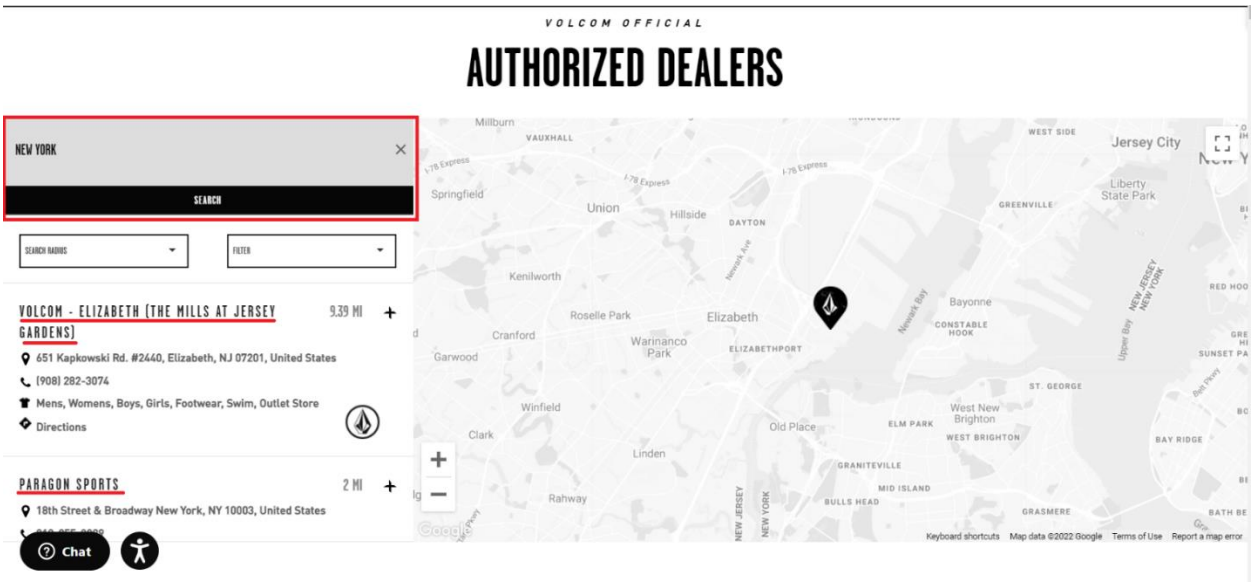
(*E.g.*, https://web.archive.org/web/2021*/https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/account/login).



(*E.g.*, https://www.volcom.com/ (for a particular user)).



(*E.g.*, https://www.volcom.com/pages/store-locator (for a particular user)).

100. On information and belief, the Accused Instrumentality utilizes a template that further includes advertisement selection information for use in selecting one or more advertisements for inclusion in the user's customized web page in addition to the real-time information. (*E.g.*, https://www.volcom.com/pages/privacy-policy).

Text Marketing and Notifications. By entering your phone number in the checkout & opting into receiving text message notification and initializing a purchase, subscribing via one of our text message subscription forms or via a keyword, you agree that we may send you text notifications (for your order, including abandoned cart reminders) and text marketing offers. Text marketing messages will not exceed five (5) a month. You acknowledge that consent is not a condition for any purchase. If you wish to unsubscribe from receiving text marketing messages and notifications reply with **STOP** to any mobile message sent from us or use the unsubscribe link we provided you with in any of our messages. You understand and agree that alternative methods of opting out, such as using alternative words or requests will not be accounted as a reasonable means of opting out. Message and data rates may apply. For any questions please text **HELP** to the number you received the messages from. You can also contact us for more information. If you wish to opt out please follow the procedures above.

4. PURPOSES FOR WHICH WE COLLECT PERSONAL INFORMATION

We collect your personal information for the following reasons:

- Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards;
- Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity;
- Debugging to identify and repair errors that impair existing intended functionality;
- Short-term, transient use, provided the personal information is not disclosed to another third party and is not used to build a profile about a consumer or otherwise alter an individual consumer's experience outside the current interaction, including, but not limited to, the contextual customization of ads shown as part of the same interaction;
- Performing services on our behalf, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, or providing similar services on our behalf;

(*E.g.*, https://www.volcom.com/pages/privacy-policy).

101. Plaintiff has been damaged as a result of Defendant's infringing conduct. Defendant is thus liable to Plaintiff for damages in an amount that adequately compensates Plaintiff for such Defendant's infringement of the '342 patent, *i.e.*, in an amount that by law cannot be less than would constitute a reasonable royalty for the use of the patented technology, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

102. Digi Portal is asserting solely method claims and therefore no marking issue arises. Regardless, on information and belief, to the extent required, all marking requirements have been complied with.

VIII. JURY DEMAND

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

a. Judgment that one or more claims of United States Patent No. 8,352,854 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

b. Judgment that one or more claims of United States Patent No. 5,983,227 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

c. Judgment that one or more claims of United States Patent No. 7,171,414 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

d. Judgment that one or more claims of United States Patent No. 7,565,359 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

e. Judgment that one or more claims of United States Patent No. 9,626,342 have been infringed, either literally and/or under the doctrine of equivalents, by Defendant;

f. Judgment that Defendant account for and pay to Plaintiff all damages to and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct

complained of herein, and an accounting of all infringements and damages not presented at trial;

g. Judgment that damages should be trebled as a result of Defendant's willful infringement;

j. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and

k. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

February 24, 2022

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